



**ONECHANGE BOARD OF TRADE, INC.**

**BYLAWS**

**Exhibit 1 to Application for Designation  
as a Contract Market**

BY LAWS OF ONEXCHANGE BOARD OF TRADE, INC.

ARTICLE I

DEFINITIONS

Section 1.1. Definitions. In these Bylaws, the following terms shall, unless the context otherwise indicates, have the meaning set forth below:

“**Act**” means the Commodity Exchange Act, as in effect from time to time.

“**Affiliate**” means, with respect to any Entity, any Person who Controls, is Controlled by or is under common Control with such Entity, and, without limiting the generality of the foregoing, any partner, trustee, officer, director or employee (whether or not having Control) of such Entity; with respect to any individual, any Person of which such individual is a partner, member, trustee, officer, director or employee or has Control, and any Person who Controls, is Controlled by, or is under common Control with such Person.

“**Approved Financial Institution**” means a bank, trust company or other Entity approved by the Clearing Organization to issue letters of credit for the benefit of Subscribers.

“**Authorized Trader**” means an individual who is authorized by a Subscriber to enter orders for the Trading Account.

“**Board**” means the board of directors of the Exchange.

“**Business Day**” means any day on which the Exchange is open for trading.

“**Bylaws**” means, with respect to any Entity, the bylaws of such Entity and the interpretations, resolutions, orders and directives of the Entity thereunder, as in effect from time to time; and, if no other Entity is specified, shall mean the Bylaws of the Exchange in effect from time to time.

“**Certificate of Incorporation**” means the certificate of incorporation of the Exchange under the Delaware GCL.

“**Clearing Organization**” means onExchange Clearing Corporation, which is designated by the Exchange to clear transactions effected on or subject to the Rules of the Exchange.

“**Code**” means the Internal Revenue Code of 1986 and any successor statute, as amended from time to time.

“**Commission**” means the Commodity Futures Trading Commission or any successor agency.

**“Commission Regulation”** means any rule, regulation, or order of the Commission, as in effect from time to time (including any successor provision), and any interpretation thereof by the Commission or its staff.

**“Commodity”** means and includes any “commodity” within the definition of that term in the Act.

**“Contract”** means a Futures Contract listed and cleared by onExchange.

**“Control”** means the power to direct or cause the direction of the management or policies of a Person, whether through ownership of securities, by contract or otherwise.

**“Customer”** means “customer,” as such term is defined in Section 1.3(k) of the Commission Regulations.

**“Delaware GCL”** means the General Corporation Law of the State of Delaware.

**“Disciplinary Committee”** means the business conduct committee, a hearing panel or any subcommittee or panel of any of them.

**“Entity”** means any Person other than an individual.

**“Exchange”** means onExchange Board of Trade, Inc. Unless otherwise provided in these Bylaws or the Rules, any reference to an action required or permitted to be taken by “the Exchange” pursuant to these Bylaws or the Rules shall include an action to be taken by any duly authorized officer or employee of the Exchange.

**“Executive Committee”** means the committee appointed by the Board consisting of the Chairman of the Board and the President.

**“Family Relationship”** means the Person’s spouse, former spouse, parent, stepparent, child, stepchild, sibling, stepbrother, stepsister, grandparent, grandchild, uncle, aunt, nephew, niece or in-law.

**“Full Trading Authorization and Consent to Jurisdiction”** means the agreement among a Subscriber, its Authorized Trader and the Exchange.

**“Futures Contract”** means a contract for the purchase or sale of a Commodity for future delivery traded on or subject to the Rules of the Exchange.

**“Governmental Agency”** means the Commission, the Securities and Exchange Commission and any other agency, federal or state, domestic or foreign, regulating trading in commodities, securities, Futures Contracts, currencies or other financial instruments.

**“Guarantor”** means an Approved Financial Institution that guarantees a Subscriber’s original, variation or delivery margin obligations to the Clearing Organization by means of a letter of credit or comparable payment guaranty scheme.

“**Material Agreement**” means the Subscriber Agreement, the Full Trading Authorization and Consent to Jurisdiction and any other agreement designated as such by the Board from time to time.

“**onExchange**” means, unless otherwise indicated, onExchange Board of Trade, Inc. and onExchange Clearing Corporation, collectively.

“**Person**” means an individual, sole proprietorship, corporation, partnership, limited liability company, association, firm, trust, or other entity, as the context may require.

“**Public Director**” means any member of the board of directors of the Exchange appointed in accordance with Section 3.2(b) of these Bylaws.

“**Rules**” means, with respect to any Entity, the rules of such Entity and the interpretations, resolutions, orders, directors and procedures of the Entity thereunder, as in effect from time to time; and, if no other Entity is specified, means the Rules of the Exchange.

“**Shareholder**” means the holder of any class of Shares.

“**Shares**” means shares of voting common stock, of par value \$0.10 per share.

“**Subscriber**” means a Person that is a counterparty to the Exchange’s Subscriber Agreement.

“**Subscriber Agreement**” means the agreement between a Subscriber and the Exchange.

“**Trading Account**” means the account of a Subscriber at the Exchange.

“**Underlying Commodity**” means, with respect to any Futures Contract, the Commodity which (or the cash value of which) is required to be delivered pursuant to the terms of such Futures Contract.

## ARTICLE II

### SHAREHOLDERS

Section 2.1. Time and Place of Meetings. All meetings of the Shareholders of the Exchange shall be held at such time and place, either within or without the State of Delaware, as shall be stated in the notice of the meeting or in a duly executed waiver of notice thereof.

Section 2.2. Annual Meeting. The annual meeting of Shareholders of the Exchange shall be held at such date, time and place, either within or without the State of Delaware, as shall be determined by the Board and stated in the notice of meeting.

Section 2.3. Special Meetings of Shareholders. Special meetings of Shareholders may be called at any time by the Board, the Chairman of the Board, the President, or the

Secretary. Special meetings shall be called by the Secretary on receipt of a written demand therefor, setting forth the matter or matters to be considered at such meeting, duly executed by the holders of not less than 10% of the Shares entitled to vote at the meeting being called. The time of any such special meeting shall be fixed by the officer calling the meeting and shall be stated in the notice of such meeting, which notice shall specify the purpose or purposes thereof. Business transacted at any special meeting shall be confined to the purposes stated in the notice of meeting and matters germane thereto.

Section 2.4. Notices. Whenever under the provisions of this Article Shareholders are required or permitted to take any action at a meeting, a written notice of the meeting shall be given which shall state the place, date and hour of the meeting, and, in the case of a special meeting, the purpose or purposes for which the meeting is called. The notice of any meeting shall be given not less than 10 nor more than 60 days before the date of the meeting to each Shareholder entitled to vote at such meeting. If mailed, notice is given when deposited in the United States mail, postage prepaid, directed to the Shareholder at such Shareholder's address as it appears on the records of the Exchange. If e-mailed, notice is given unless the Exchange mail server receives an "undelivered" notice, directed to the Shareholder at such Shareholder's electronic address as it appears in the records of the Exchange. An affidavit of the Secretary or an Assistant Secretary of the Exchange that the notice has been given shall, in the absence of fraud, be prima facie evidence of the facts therein stated.

Section 2.5. Quorum.

(a) Except as otherwise provided by these Bylaws or by law, the holders of a majority of the votes of Shares entitled to vote thereat shall constitute a quorum at any meeting of Shareholders for the transaction of business.

(b) If a quorum shall not be present in person or represented by proxy at any meeting of the Shareholders at which action is to be taken by the Shareholders, the Shareholders entitled to vote thereat, present in person or represented by proxy, shall have power to adjourn the meeting from time to time without notice other than announcement at the meeting, until holders of the requisite number of Shares entitled to vote shall be present or represented by proxy. If the adjournment is for more than 30 days, or if after the adjournment a new record date is fixed for the adjourned meeting, a notice of the adjourned meeting shall be given to each Shareholder of record entitled to vote thereat. At the adjourned meeting, any business may be transacted which might have been transacted at the meeting as originally called.

Section 2.6. Voting. At every meeting of the Shareholders, each Shareholder having the right to vote shall be entitled to vote in person or by proxy. Except as provided in these Bylaws or as required by law, all action to be taken by vote of the Shareholders shall be authorized by a majority (or, in the case of the election of directors, by a plurality) of the votes cast at a meeting of Shareholders by the Shareholders entitled to vote thereon. Shareholders shall not vote by class, except as may be required by these Bylaws or any applicable provision of law.

Section 2.7. Shareholder List. A complete list of the Shareholders entitled to vote at any meeting of Shareholders arranged in alphabetical order with the address of each and the

number of Shares held by each, shall be prepared by the Secretary. Such list shall be open to the examination of any Shareholder for any purpose germane to the meeting during ordinary business hours for a period of at least 10 days prior to the meeting. The list shall also be produced and kept at the time and place of the meeting during the whole time thereof, and may be inspected by any Shareholder who is present.

Section 2.8. Proxies. Every Shareholder entitled to vote at a meeting of Shareholders or to express consent or dissent without a meeting may authorize any person or persons to act for the Shareholder by proxy. Every proxy must be signed by the Shareholder or the Shareholder's attorney-in-fact. No proxy shall be valid after the expiration of three years from the date thereof unless the proxy provides for a longer period. Every proxy shall be revocable at the pleasure of the Shareholder executing the proxy, except as otherwise provided by law and except that a proxy shall be irrevocable if it states that it is irrevocable and if, and only so long as, it is coupled with an interest sufficient in law to support an irrevocable power.

Section 2.9. Written Consent in Lieu of a Meeting. Any action required or permitted to be taken at any meeting of Shareholders may be taken without a meeting, without prior notice and without a vote, if a consent in writing setting forth the action so taken shall be signed by the holders of outstanding Shares having not less than the minimum number of votes that would have been necessary to authorize or take such action at a meeting at which all Shares entitled to vote thereon were present and voted, except that if such consent is given to the election of directors in lieu of an annual meeting of Shareholders, such consent must be unanimous. Where action is taken in such manner by less than unanimous written consent, prompt written notice of the taking of such action shall be given to all Shareholders who have not consented in writing thereto and who, if the action had been taken at a meeting, would have been entitled to notice of the meeting.

Section 2.10. Record Date. In order that the Exchange may determine the Shareholders entitled to notice of or to vote at any meeting of Shareholders or any adjournment thereof, or entitled to express consent to action in writing without a meeting, or entitled to receive payment of any distribution, or for the purpose of any other lawful action, the Board may fix, in advance, a record date, which shall not be more than 60 nor less than 10 days before the date of such meeting, nor more than 60 days prior to any other action. Except as otherwise provided by these Bylaws or by law, each Shareholder of record shall be entitled to one vote for each outstanding Share standing in his, her or its name on the books of the Exchange as of the record date.

Section 2.11. Shareholders of Record. The Exchange shall be entitled to treat the holder of record of any Share or Shares as the holder in fact thereof and accordingly shall not be bound to recognize any equitable or other claim to or interest in such Share on the part of any other person, whether or not it shall have express or other notice thereof, save as expressly provided by the laws of the State of Delaware.

## ARTICLE III

### DIRECTORS

#### Section 3.1. Duties, Powers and Eligibility.

(a) Except as otherwise specifically provided in these Bylaws or required by the Delaware GCL or other applicable law, all powers of the Exchange shall be held at any time by, and all decisions respecting any matter set forth herein or otherwise affecting or arising out of the conduct of the business of the Exchange shall be made by the Board, without the vote or approval of any Shareholders. The Board shall have all rights and powers on behalf and in the name of the Exchange to perform all acts necessary and desirable to the objects and purposes of the Exchange, including the right to authorize any director, officer or other Person to act on behalf of the Exchange. Any action taken by the Board or any duly authorized director, officer or other Person in accordance with these Bylaws shall constitute the act of, and shall serve to bind the Exchange. Subject to the provisions of these Bylaws, the Board may create and delegate any part or all of its powers and authority to, such committees as the Board may deem appropriate.

(b) Except as otherwise provided in these Bylaws or authorized by the Board, no Shareholder and no director, officer, employee or representative of any Shareholder, and no director or officer of the Exchange, and no other Person, shall have the authority or power, directly or indirectly, to act as agent of the Exchange for any purpose, engage in any transaction, make any commitment, enter into any contract or incur any obligation (whether as principal, surety or agent) in the name of the Exchange or in any other way bind the Exchange or hold itself out as acting for or on behalf of the Exchange. Any attempted action in contravention of this Section shall be null, void ab initio and not binding upon the Exchange, unless ratified or authorized in writing by the Board.

(c) Without limiting the generality of the foregoing paragraph (a), the Board shall have the power to:

(i) take such steps as may be necessary in order to make effective the final orders or decisions entered pursuant to the provisions of Section 6(c), and the orders issued pursuant to the provisions of Section 5a, of the Act, and comply in all respects with all requirements applicable to the Exchange under the Act;

(ii) designate any Person to clear transactions effected on or subject to the Rules of the Exchange;

(iii) impose charges upon Subscribers of the Exchange;

(iv) impose such fees or charges for Contracts effected on or subject to the Rules of the Exchange, and waive or reduce such fees or charges under such circumstances, as the Board in its discretion may deem appropriate;

(v) adopt, amend and repeal such Rules as the Board may in its discretion deem necessary or appropriate in the best interests of the Exchange; provided,

however, that no such Rule may be inconsistent with any provision of the Certificate of Incorporation of the Exchange or these Bylaws, except as provided in Section 3.8 of these Bylaws; and

(vi) waive or extend the time for compliance with any of the provisions of the Rules in any case where the Board in its discretion deems necessary or appropriate.

(d) In the case of the matters listed in clauses (i) through (ix) of this paragraph (d) and any similar matters, action may be taken or authorized by vote of a majority of the directors, and no action shall be taken or authorized on any such matters without the affirmative vote of a majority of the directors:

(i) the declaration or payment of dividends or distributions of Shares of any Class of the Exchange;

(ii) the entering into by the Exchange of any joint venture, partnership or similar arrangement with any other Person;

(iii) any substantial change in the trading system used by the Exchange in any exchange or market operated by it;

(iv) taking any action which would commit the Exchange to any capital expenditure not in the ordinary course of business;

(v) the redemption of any Shares;

(vi) any change or modification to the name or principal place of business of the Exchange;

(vii) any action to rebate, or extend credit against future, Exchange fees;

(viii) the appointment of a chief executive officer of the Exchange;

(ix) any action to approve or modify the budget for capital or other expenditures of the Exchange; and

(x) the amendment of these Bylaws.

### Section 3.2. Number, Election or Appointment; Tenure.

(a) The number of directors initially shall be three, all of whom shall be elected by the Shareholders, to hold office until the date referred to in the first sentence of paragraph (b) of this Section.

(b) Commencing on a date to be fixed by the Board, which date shall be prior to the date on which the Exchange first opens for trading, the number of directors shall be nine, seven of whom shall be elected by the Shareholders, and two of whom shall be appointed by the Board in accordance with paragraph (e) of this Section (the "Public Directors"). Thereafter such

total number may be increased from time to time by the Shareholders or by the Board or may be decreased by the Shareholders; provided that:

(i) no decrease in the number of directors shall shorten the term of any incumbent director;

(ii) the number of directors elected by any class of Shareholders may not be reduced without the affirmative vote of such class; and

(iii) the number of Public Directors may not be reduced below the number prescribed in paragraph (e) of this Section.

(c) Except as otherwise provided by these Bylaws or by law, directors (other than Public Directors) shall be elected each year at the annual meeting of Shareholders, and Public Directors shall be appointed at the first meeting of the Board following the annual meeting of Shareholders.

(d) Except as otherwise provided by these Bylaws or by law, each director (other than Public Directors) shall hold office until the annual meeting of Shareholders next succeeding his or her election and until his or her successor is elected and has qualified, or until his or her earlier resignation or removal. Each Public Director shall hold office until the first meeting of the Board following the annual meeting of Shareholders occurring after such Public Director shall have been appointed and until his or her successor is appointed and has qualified, or until his or her earlier resignation or removal.

(e) No less than twenty percent (20%) or more of the regular voting members of the Board shall be individuals who:

(i) are knowledgeable of futures trading or financial regulation or are otherwise capable of contributing to deliberations of the Board; and

(ii) are not currently

(A) Subscribers,

(B) salaried employees of the Exchange,

(C) primarily performing services for the Exchange in a capacity other than as a member of the Board, or

(D) officers, principals or employees of a Subscriber.

(f) Ten percent (10%) or more of the regular voting members of the Board shall be comprised of individuals representing Persons engaged in the business of trading Underlying Commodities.

(g) The membership of the Board shall include a diversity of interests.

(h) Terms in paragraphs (e), (f) and (g) of this Section shall have the meanings set forth in Section 1.64(a) of the Commission Regulations.

Section 3.3. Resignation and Removal.

(a) A director may resign at any time by giving written notice to the Board or to the President of the Exchange. Such resignation shall take effect upon receipt thereof by the Board or by the President, unless otherwise specified therein. The acceptance of a resignation shall not be necessary to make it effective.

(b) Any one or more of the directors may be removed, either with or without cause, at any time by the affirmative vote of a majority of the Shareholders at any meeting of such Shareholders called for such purpose.

(c) Any one or more of the Public Directors may be removed, either with or without cause, at any time by the affirmative vote of a majority of the Board at any special meeting of the Board called for such purpose.

(d) A director who becomes ineligible to serve on the Board pursuant to Section 3.6 shall be automatically removed upon the occurrence of such ineligibility without any act of the Shareholders or the Board.

Section 3.4. Vacancies.

(a) A vacancy occurring among the directors for any reason and newly created directorships resulting from an increase in the authorized number of directors may be filled by majority vote of the directors then in office, although less than a quorum, or by the sole remaining director.

(b) A vacancy occurring among the Public Directors for any reason and newly created Public Directorships shall be filled by the Board.

(c) Any individual appointed by the Board to fill a vacancy as a director shall hold office for the balance of the term of the director whose position such successor is filling.

Section 3.5. Compensation. Each director shall receive for services rendered as a director of the Exchange such compensation as may be fixed by the Board. Nothing herein contained shall be construed to preclude any director from serving the Exchange in any other capacity and receiving compensation therefor.

Section 3.6. Eligibility for Service on Boards and Committees.

(a) No individual shall be eligible to serve on the Board, the Business Conduct Committee, any Arbitration Panel or any committee appointed by the Board, if such individual:

(i) was found within the prior three years by a Final Decision in any action or proceeding brought by the Commission, any other Governmental Agency or any Self-Regulatory Organization to have committed a Disciplinary Offense;

(ii) entered into a Settlement Agreement within the prior three years in which any of the findings or, in the absence of such findings, any of the acts charged (and not withdrawn) included a Disciplinary Offense;

(iii) currently is suspended from trading on any contract market, is suspended or expelled from membership in any Self-Regulatory Organization, is serving any sentence or probation or owes any portion of a fine imposed pursuant to either:

(A) a finding by a Final Decision in any action or proceeding brought by the Commission, any other Governmental Agency or any Self-Regulatory Organization that such person committed a Disciplinary Offense; or

(B) a Settlement Agreement in which any of the findings or, in the absence of such findings, any of the acts charged (and not withdrawn) included a Disciplinary Offense;

(iv) currently is subject to an agreement with the Commission or any Self-Regulatory Organization not to apply for registration with the Commission or membership in any Self-Regulatory Organization;

(v) currently is subject to, or has had imposed on such person, within the prior three years, a Commission registration revocation or suspension in any capacity for any reason, or has been convicted within the prior three years of any of the felonies, listed in Section 8a(2)(D)(ii) through (iv) of the Act; or

(vi) currently is subject to a denial, suspension or disqualification from serving on a Disciplinary Committee, Arbitration Panel or governing board of any "Self-Regulatory Organization" as that term is defined in Section 3(a)(26) of the Securities Exchange Act of 1934.

(b) Any individual who is a member of the Board, the Business Conduct Committee or any other committee appointed by the Board shall immediately notify the President of any Final Decision which subjects such person to disqualification pursuant to paragraph (a) of this Section.

(c) For purposes of this Section 3.6, the following definitions shall apply:

(i) "Arbitration Panel" means any person or panel empowered to arbitrate disputes under Part 8 of the Rules of the Exchange.

(ii) "Disciplinary Committee" means any person or panel empowered by a Self-Regulatory Organization to bring disciplinary proceedings, to impose sanctions or to hear appeals thereof.

(iii) "Disciplinary Offense" means:

(A) any violation of the Rules of a Self-Regulatory Organization except those rules relating to (1) decorum or attire, (2) financial requirements, or (3) reporting or recordkeeping, unless resulting in fines aggregating more than \$5,000 in any calendar year;

(B) any rule violation described in subparagraph (b)(ii)(A) of this Section which involves fraud, deceit or conversion or results in a suspension from membership in, or in expulsion from, a Self-Regulatory Organization;

(C) any violation of the Commodity Exchange Act or a Commission Regulation promulgated thereunder;

(D) any failure to exercise supervisory responsibility with respect to acts described in subparagraphs (c)(ii)(A) through (C) of this Section, when such failure is itself a violation of either the Rules of a Self-Regulatory Organization, the Commodity Exchange Act, or a Commission Regulation promulgated thereunder;

(E) any violation of the Rules or Bylaws of the Company or the Exchange; or

(F) a material breach of a Material Agreement.

(iv) "Final Decision" means:

(A) a decision of a Self-Regulatory Organization which cannot be further appealed within the Self-Regulatory Organization, is not subject to the stay of the Commission or a court of competent jurisdiction, and has not been reversed by the Commission or any court of competent jurisdiction; or

(B) any decision by an administrative law judge, a court of competent jurisdiction or the Commission, which has not been stayed or reversed.

(v) "Self-Regulatory Organization" means a "self-regulatory organization" as defined in Commission Regulation \_\_ 1.3(e), and includes a "clearing organization" as defined in Commission Regulation 1.3(d), except as defined in Section 3.6(d)(vi).

(vi) "Settlement Agreement" means any agreement whereby a person consents to the imposition of sanctions approved by the Board or a Disciplinary Committee or by another Self-Regulatory Organization, a court of competent jurisdiction or the Commission.

Section 3.7. Improper Use or Disclosure of Material, Non-Public Information.

(a) No member of the Board or of any committee established by the Exchange shall:

(i) trade for such Person's own account, or for or on behalf of any other account, in any commodity interest, on the basis of any material, non-public information obtained through special access related to the performance of such Person's official duties; or

(ii) disclose, for any purpose other than the performance of such person's official duties as a member of the Board or such committee, any material non-public information obtained by such person as a result of such person's participation on the Board or on any such committee.

(b) For the purposes of this Section, the terms "material" and "non-public information" shall each have the meaning set forth in Section 1.59(a) of the Commission Regulations.

Section 3.8. Emergency Powers.

(a) As used in this Section:

(i) The term "emergency" means any occurrence or circumstance which, in the opinion of the Board, requires immediate action and threatens or may threaten such things as the fair and orderly trading in, or the liquidation of or delivery pursuant to, any Contract traded on the Exchange. Occurrences and circumstances which the Board may deem emergencies include but are not limited to the following:

(A) any manipulative activity or attempted manipulative activity;

(B) any actual, attempted, or threatened corner, squeeze, congestion or undue concentration of positions;

(C) any circumstance which may materially affect the performance of Contracts, including failure of the payment system;

(D) any action taken by the United States or any foreign government or any state or local government body, any other contract market, board of trade, or any other exchange or trade association (foreign or domestic), which may have a direct impact on trading on the Exchange;

(E) any circumstance which may have a severe, adverse effect upon the physical functions of the Exchange, including, for example, fire or other casualty, bomb threat, substantial inclement weather, power failure, communication or transportation breakdown, computer malfunction, breakdown of screen-based trading systems, malfunction of plumbing, heating, ventilation and air conditioning systems, or other similar events;

(F) the bankruptcy or insolvency of any Subscriber or Guarantor or the imposition of any injunction or other restraint by any Government Agency, court or arbitrator upon any Subscriber or Guarantor which may affect the ability of that Subscriber or Guarantor to perform its Contracts or guarantee obligations;

(G) any circumstance in which it appears that a Subscriber or Guarantor or any other Person has failed or may fail to perform Contracts, is or may be insolvent, or is in such financial or operational condition or is conducting business in such a manner that such Person cannot be permitted to continue in business without jeopardizing the safety of Customer funds, Subscribers, Guarantors, the Exchange itself, or the Clearing Organization; and

(H) any other unusual, unforeseeable and adverse circumstance with respect to which it is not practicable for the Exchange to submit, in a timely fashion, a reviewable rule to the Commission for prior approval.

(ii) The term "two-thirds vote of the Board" means the affirmative vote of persons constituting not less than two-thirds of the members of the Board either (A) physically present and voting at a meeting of the Board at which a quorum is physically in attendance or (B) voting in any manner other than at a meeting at which a quorum is physically in attendance as may from time to time be permitted by the Delaware GCL.

(iii) The term "the Board" shall include any committee of Board members appointed by the Board, to which the Board has delegated its authority pursuant to this Section 3.8.

(b) Notwithstanding any other provisions of these Bylaws or any provisions of the Rules, in the event of any emergency, the Exchange by a two-thirds vote of the Board, may, subject to the applicable provisions of the Act and the Commission Regulations and subject to Section 3.1(d) of these Bylaws, place into immediate effect (for such time as may be permitted under Commission Regulations) a temporary emergency rule which may provide for, or may authorize the Exchange or the Board or any committee to undertake, actions which, in the opinion of the Board are necessary or appropriate to meet the emergency, including, but not limited to, such actions as:

(i) limiting trading to liquidation only, in whole or in part, or limiting trading to liquidation only except for new sales or grants of Contracts by parties who have the Underlying Commodity of such Contracts;

(ii) extending or shortening the expiration date for trading of Contracts;

(iii) extending the time of delivery under or expiration of Contracts;

(iv) changing delivery points and/or the means of delivery;

(v) ordering the liquidation of Contracts, the fixing of a settlement price or premium, or the reduction in positions;

(vi) ordering the transfer of contracts, and the money, securities, and property securing such Contracts, held on behalf of Subscribers to another Subscriber willing to assume such Contracts or obligated to do so;

(vii) extending, limiting or changing hours of trading;

(viii) suspending trading;

(ix) changing the amount of money to be paid or the type of Commodity to be delivered under Contracts, whether theretofore or thereafter entered into; and

(x) modifying or suspending any provision of these Bylaws, the Rules, or resolutions, decisions, orders or binding interpretations thereof of the Exchange.

(c) In the event the physical functions of the Exchange are, or are threatened to be, severely and adversely affected by a "physical emergency", such as fire or other casualty, bomb threat, substantial inclement weather, power failure, communication or transportation breakdown, computer malfunction, breakdown of screen-based trading systems, malfunction of plumbing, heating, ventilation and air conditioning systems, backlog or delay in clearing or in the processing related to clearing trades, or other similar event, the President or in his or her absence any Vice President, or in all of their absences any other officer, may take any action which, in the opinion of such officer is necessary or appropriate to deal with the emergency, including, but not limited to, suspending trading in any one or more Contracts, delaying the opening of trading in any one or more Contracts, extending the last day of trading and/or the time of trading. In no event, however, shall any such action taken by such an officer continue in effect for more than five days unless the Exchange has submitted, in writing, and the Commission has granted, for good cause shown, a request for an extension of time. In the event any such officer has ordered suspension of trading, the President, or in his or her absence any Vice President, or in all of their absences any other officer, may order restoration of trading, or may remove other restrictions so imposed, if such officer determines that the "physical emergency" has sufficiently abated to permit the physical functions of the Exchange to continue in an orderly manner.

## ARTICLE IV

### MEETINGS OF THE BOARD

Section 4.1. Time and Place. Meetings of the Board shall be held at such times and places, within or without the State of Delaware, and within or without the United States of America, as shall be determined by the Board or otherwise in accordance with these Bylaws.

Section 4.2. Annual Meeting. An annual meeting of the Board shall be held promptly after each annual meeting of Shareholders on such day and at such time as the Board may fix, for the purpose of organization, the appointment of Public Directors, the election of officers and any other proper purpose.

Section 4.3. Regular Meetings. Regular meetings of the Board may be held at such time and place as shall, from time to time, be determined by the Board.

Section 4.4. Special Meetings. Special meetings of the Board may be called at any time by the Chairman of the Board, the President, the Secretary, or any three members of the Board. At any special meeting of the Board, only the matters stated in the notice of the meeting may be acted upon at such meeting, unless an action on any matter is consented to by all of the members of the Board.

#### Section 4.5. Quorum and Voting.

(a) A majority of the entire Board shall constitute a quorum at any meeting of the Board, except that one-third of the total number of directors shall constitute a quorum for the taking of emergency action pursuant to Section 3.8 of these Bylaws.

(b) The act of a majority vote of the directors present at any duly constituted meeting, if a quorum is present, shall be the act of the Board, except as may otherwise be specifically provided by law or these Bylaws. If at any meeting of the Board there shall be less than a quorum present, the director or directors present thereat may adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum shall have been obtained.

(c) (i) No member of the Board, the Business Conduct Committee or any committee appointed by the Board shall knowingly participate in such body's deliberations and voting on any matter involving a named party in interest where such member:

(A) is a named party in interest;

(B) is an employer, employee, or fellow employee of a named party in interest;

(C) has any other significant, ongoing business relationship with a named party in interest; or

(D) has a Family Relationship with a named party in interest.

(ii) Prior to the consideration of any matter involving a named party in interest, each member of the Board, the Business Conduct Committee, or the committee appointed by the Board (as the case may be) must disclose to the President of the Exchange, or the designee of the President, whether he or she has one of the relationships listed in subparagraph (i) of this paragraph (c) with a named party in interest.

(iii) The President or such designee shall determine whether any such member of the Board, the Business Conduct Committee, or the committee appointed by the Board is subject to the restrictions set forth in this paragraph (c) in any matter involving a named party in interest, which determination, taking into consideration the exigency of the action to be taken, shall be based upon:

(A) information provided by such member pursuant to subparagraph (ii) of this paragraph (c); and

(B) any other source of information that is held by and reasonably available to the Exchange.

(d) (i) No member of the Board, the Business Conduct Committee, or the committee appointed by the Board shall participate in such body's deliberations and voting on any significant action if such member knowingly has a direct and substantial financial interest in the result of the vote based upon either Exchange or non-Exchange positions that could reasonably be expected to be affected by the action.

(ii) Prior to the consideration of any significant action, each member of the Board, the Business Conduct Committee, or the committee appointed by the Board (as the case may be) must disclose to the President or designee of the President the information referred to in subparagraph (iii) of this paragraph (d) that is known to him or her, unless such member chooses to abstain from deliberations and voting on the significant action in question.

(iii) The President or such designee shall determine whether the member of the Board, the Business Conduct Committee, or the committee appointed by the Board is subject to the restrictions contained in this paragraph (d) in any significant action, after a review of:

(A) gross positions, if any, held at the Exchange in such member's personal accounts or "controlled accounts," as defined in Section 1.30(j) of the Commission Regulations;

(B) gross positions, if any, held at the Exchange in "proprietary accounts," as defined in Section 1.17(b)(3) of the Commission Regulations, at such member's affiliated firm;

(C) gross positions, if any, held at the Exchange in accounts in which such member is a "principal," as defined in Section 3.1(a) of the Commission Regulations;

(D) net positions held at the Exchange in "customer" accounts, as defined in Section 1.17(b)(2) of the Commission Regulations, at such member's affiliated firm; and

(E) any other types of positions, whether maintained at the Exchange or elsewhere, held in such member's personal accounts or the proprietary accounts of such member's affiliated firm that the Exchange reasonably expects could be affected by the significant action.

(iv) Taking into account the exigency of the significant action, such determination should be based upon:

(A) the most recent large trader reports and clearing records available to the Exchange;

(B) information provided by such member with respect to positions pursuant to subparagraph (iii) of this paragraph (d); and

(C) any other source of information that is held by and is reasonably available to the Exchange.

(v) Any member of the Board, the Business Conduct Committee or any committee appointed by the Board who would otherwise be required to abstain from deliberations and voting pursuant to this paragraph (d) may participate in deliberations, prior to a vote on a significant action for which he or she otherwise would be required to abstain pursuant to this paragraph (d), if in the judgment of the deliberating body such participation would be consistent with the public interest, and if such member excuses himself or herself from voting on such action. In making a determination as to whether to permit such member to so participate in such deliberations, the deliberating body shall consider (A) whether such member's participation in the deliberations is necessary for the deliberating body to achieve a quorum in the matter, and (B) whether the member has unique or special expertise, knowledge or experience in the matter under consideration. Prior to making any such determination, the deliberating body must fully consider the position information which is the basis for the member's direct and substantial financial interest in the result of a vote on a significant action.

(e) The Board, the Business Conduct Committee and each committee appointed by the Board must reflect in their minutes or otherwise document that the conflicts determination procedures required by paragraphs (c) and (d) of this Section have been followed. Such records also must include:

(i) the names of all members who attended the meeting in person or who otherwise were present by electronic means;

(ii) the name of any member who voluntarily excused himself or herself or was required to abstain from deliberations and/or voting on a matter and the reason for the refusal or abstention, if stated; and

(iii) the information on the position information that was reviewed for each member.

(f) Terms used in paragraphs (c), (d) and (e) of this Section shall have the meanings set forth in Section 1.69(a) of the Commission Regulations.

#### Section 4.6. Notices.

(a) All meetings of the Board or any committee shall be held on notice to the members thereof. Special meetings of the Board or any committee shall be held upon not less than one hour's notice stating the purpose, place, date and hour of the meeting and specifying the person or persons at whose direction the meeting is called.

(b) At any special meeting of the Board or any committee, only the matters stated in the notice of the meeting may be acted upon at such meeting, unless an action on any other matter is consented to by all of the members of the Board or such committee.

(c)- A notice pursuant to this Section may be given orally or in writing, by personal delivery, by telephone, by telefacsimile or by electronic mail to such address, telephone or facsimile number as may be listed on the records of the Exchange.

Section 4.7. Written Consents in Lieu of a Meeting. Any action required or permitted to be taken at any meeting of the Board or any committee may be taken without a meeting if all members of the Board or the committee, as the case may be, consent to such action in writing, and such writing or writings are filed with the minutes of the proceedings of the Board or committee.

Section 4.8. Telephonic Participation in Meetings. The Board may participate in a meeting by means of conference telephone, or similar communications equipment by means of which all persons participating in the meeting can hear each other. Participation by such means shall constitute presence in person at such meeting.

## ARTICLE V

### COMMITTEES

#### Section 5.1. Designation and Powers.

(a) The Board may in its discretion appoint one or more committees consisting of one or more of the directors of the Exchange, and may designate one or more directors as alternate members of any committee, who may replace any absent or disqualified member at any meeting of the committee. Any such committee, to the extent provided in a resolution of the Board or in these Bylaws, shall have and may exercise all the powers and authority of the Board

in the management of the business and affairs of the Exchange; but no such committee shall have power or authority in reference to amending these Bylaws. In the absence or disqualification of any such member of a committee, the member or members thereof present at, any meeting and not disqualified from voting, whether or not constituting a quorum, may unanimously appoint another director to act at the meeting in place of any such absent or disqualified member.

(b) In addition, to any committees established under Section 5.1(a), the Board shall appoint an Executive Committee, a Business Conduct Committee, a hearing committee, a membership committee and any additional committees it deems appropriate, each of which shall have the powers and perform the duties set forth in these Bylaws, the Rules, or as the Board determines. Each such committee shall consist of two or more persons appointed by the Board, who may but need not be members of the Board; provided, that the business conduct committee shall include at least one member of the Board.

(c) The hearing committee and each hearing panel drawn from the hearing committee shall include sufficient different interests so as to insure fairness and to prevent special treatment or preference for any Person in the conduct of such committee.

#### Section 5.2. Meetings of Committees.

(a) Meetings of any committee may be held at any time or place as shall be determined by resolution of the committee or upon the call of the President, the chairman of the committee or any three members of the committee.

(b) A majority of the entire committee shall constitute a quorum at any meeting of a committee. Subject to Section 3.1(d), the act of a majority of the members of a committee shall be the act of the committee, except as provided in Section 4.5(c) and (d) with respect to any Disciplinary Committee or oversight panel, and except as may otherwise be specifically provided by law, these Bylaws or the Rules.

(c) Any action required or permitted to be taken at any meeting of a committee may be taken without a meeting if all members of the committee consent to such action in writing.

(d) Any member of a committee may participate in a meeting of the committee by means of conference telephone or similar communications equipment by means of which all persons participating in the meeting can hear each other. Participation by such means shall constitute presence in person at such meeting.

#### Section 5.3. Advisory Committee.

(a) In addition to the committees established pursuant to Sections 5.1(a) and 5.1(b), an Advisory Committee shall be appointed by the Chairman of the Board and approved by the directors. In appointing the members of the Advisory Committee, the Chairman of the Board shall endeavor to appoint individuals who represent the diverse interests of the Exchange and the Clearing Organization, including futures commission merchants and producers, processors, distributors, merchandisers, or consumers of the principal products traded on the contract markets

provided by the Exchange. The President or the President's representative, shall be an ex-officio member of the Advisory Committee and shall be entitled to attend all of its meetings.

(b) The Advisory Committee shall consult with and shall advise the Board with respect to all aspects of the business and operation of the contract markets. The directors shall consider any recommendation the Advisory Committee shall present to it and shall record in the minutes of its meetings its disposition of any such recommendation. However, except as the Board shall otherwise permit, the Advisory Committee shall not be entitled to vote with respect to any matter.

Section 5.4. Executive Committee. The Executive Committee shall consist of the Chairman of the Board and the President and shall be responsible for the day-to-day management of the Exchange.

## ARTICLE VI

### NOTICES

Section 6.1. Delivery of Notices. Notices to directors and Shareholders shall be in writing and may be delivered personally, by mail, by e-mail or, in the case of meetings of the Board or any Committee, by any means permitted under Section 4.6. Notice by mail shall be deemed to be given at the time when deposited in the United States mail, postage prepaid, and addressed to directors, Shareholders or committee members at their respective addresses appearing on the books of the Exchange, unless any such director, Shareholder or committee member shall have filed with the Secretary of the Exchange a written request that notices intended for him or her be mailed or delivered to some other address, in which case the notice shall be mailed to or delivered at the address designated in such request.

Section 6.2. Waiver of Notice. Whenever notice is required to be given by these Bylaws or applicable law, a waiver thereof in writing, signed by the person or persons entitled to such notice, whether before or after the time stated therein, shall be deemed equivalent to the giving of such notice. Attendance of a person at a meeting of Shareholders, directors or any committee, as the case may be, shall constitute a waiver of notice of such meeting, except where the person is attending for the express purpose of objecting, at the beginning of the meeting, to the transaction of any business because the meeting is not lawfully called or convened. Neither the business to be transacted at, nor the purpose of, any regular or special meeting of Shareholders, directors or committee need be specified in any waiver of notice.

## ARTICLE VII

### OFFICERS, EMPLOYEES AND CONSULTANTS

Section 7.1. Officers. At the annual meeting of directors the Board shall appoint a Chairman of the Board, President, Secretary and Treasurer and may appoint one or more Vice Presidents, Assistant Secretaries or Assistant Treasurers and such other officers as the Board may from time to time designate or the business of the Exchange may require. Except for the Chairman

of the Board, no officer need be a member of the Board. Any number of offices may be held by the same individual, except that the office of Secretary may not be held by the Chairman of the Board or the President. Each officer other than the Chairman of the Board shall be a full-time employee of the Exchange.

Section 7.2. Other Officers and Agents. The Board may also appoint such other officers and agents as the Board may at any time or from time to time determine to be advisable, such officers and such agents to serve for such terms and to exercise such powers and perform such duties as shall be specified at any time or from time to time by the Board.

Section 7.3. Tenure; Resignation; Removal; Vacancies. Each officer of the Exchange shall hold office until his or her successor is elected and qualified, or until his or her earlier resignation or removal; provided, that if the term of office of any officer shall have been fixed by the Board, he or she shall cease to hold such office no later than the date of expiration of such term regardless of whether any other person shall have been elected or appointed to succeed him or her. Any officer may be removed at any time, with or without cause, by the Board; provided, that any such removal shall be without prejudice to the rights, if any, of the officer so employed under any employment contract or other agreement with the Exchange. An officer may resign at any time upon written notice to the Board. If the office of any officer becomes vacant by reason of death, resignation, retirement, disqualification, removal from office or otherwise, the Board may appoint a successor or successors to hold office for such term as may be specified by the Board.

Section 7.4. Compensation. Except as otherwise provided by these Bylaws, the salaries of all officers of the Exchange appointed by the Board shall be fixed by the Board.

Section 7.5. Authority and Duties. All officers shall have such authority and perform such duties in the management of the Exchange as may be provided in these Bylaws or the Rules. In addition to the powers and duties hereinafter specifically prescribed for the respective officers, the Board may from time to time impose or confer upon any of the officers such additional duties and powers as the Board may see fit, and the Board may from time to time impose or confer any or all of the duties and powers hereinafter specifically prescribed for any officer upon any other officer or officers.

Section 7.6. Chairman of the Board. The Chairman of the Board, who shall be a director, shall preside at all meetings of the Shareholders and at all meetings of the Board. He or she shall be a member ex officio of all committees of the Board and shall perform such other duties as may be assigned from time to time by the Board.

Section 7.7. President. The President shall be the chief executive officer of the Exchange. He or she shall perform such duties as may be assigned to him or her by the Board, and in the event of the disability or absence of the Chairman of the Board, perform the duties of the Chairman of the Board, including presiding at meetings of Shareholders and directors. He or she shall from time to time report to the Board all matters within his or her knowledge which the interest of the Exchange may require to be brought to their notice, and shall also have such other powers and perform such other duties as may be specifically assigned to him or her from time to

time by the Board. The President shall see that all resolutions and orders of the Board are carried into effect, and in connection with the foregoing, shall be authorized to delegate to the Vice President and the other officers such of his or her powers and such of his or her duties as he or she may deem to be advisable.

Section 7.8. The Vice President(s). The Vice President, or if there be more than one, the Vice Presidents, shall perform such duties as may be assigned to them from time to time by the Board or as may be designated by the President. In case of the absence or disability of the President the duties of the office shall, if the Board or the President has so authorized, be performed by the Vice President, or if there be more than one Vice President, by such Vice President as the Board or President shall designate.

Section 7.9. The Treasurer. The Treasurer shall have the custody of the Exchange's funds and securities and shall keep full and accurate accounts of receipts and disbursements in books belonging to the Exchange and shall deposit all monies and other valuable effects in the name and to the credit of the Exchange, in such depositories as may be designated by the Board or by any officer of the Exchange authorized by the Board to make such designation. The Treasurer shall exercise such powers and perform such duties as generally pertain or are necessarily incident to his or her office and shall perform such other duties as may be specifically assigned to him or her from time to time by the Board or by the President or any Vice President.

Section 7.10. The Secretary. The Secretary shall attend all meetings of the Board and all meetings of the Shareholders and record all votes and the minutes of all proceedings in a book to be kept for that purpose; and shall perform like duties for any committee when required. He or she shall give, or cause to be given, notice of all meetings of the Shareholders and, when necessary, of the Board. The Secretary shall exercise such powers and perform such duties as generally pertain or are necessarily incident to his or her office and he or she shall perform such other duties as may be assigned to him or her from time to time by the Board, the President or by any Vice President.

Section 7.11. Restrictions on Trading and Disclosure by Employees and Consultants.

(a) No employee of the Exchange or consultant to the Exchange shall trade, directly or indirectly, in any commodity interest traded on any contract market operated by the Exchange or cleared by the Clearing Organization, or in any related commodity interest, or, in the case of an employee, in any commodity interest traded on any other contract market or cleared by any other clearing organization where the employee of the Exchange or consultant, as the case may be, has access to material non-public information concerning such commodity interest.

(b) The President (or, in the case of the President, the Chairman of the Board) may grant exemptions from the provisions of paragraph (a) to employees and consultants on a case-by-case basis under circumstances which are not contrary to the purposes of this Section, the Act, Commission Regulation 1.59, the public interest, or just and equitable principles of trade. Such circumstances may include, but are not necessarily limited to:

(i) participation in pooled investment vehicles where the employee of the Exchange or the consultant to the Exchange has no direct or indirect control over transactions executed by the pool;

(ii) trading in commodity interests traded on any contract market not operated by the Exchange or cleared by any clearing organization other than the Clearing Organization under circumstances in which the employee's access to material non-public information as to those commodity interests is sufficiently minimal or attenuated so as to be insignificant; and

(iii) such other circumstances as the President (or, in the case of the President, the Chairman of the Board) may determine.

Participation in an Exchange-sponsored savings or retirement plan shall not be deemed to constitute trading directly or indirectly in a commodity interest, notwithstanding such plan's use of pooled funds which utilize commodity interests or the trading thereof.

(c) Any employee exempted under paragraph (b) must:

(i) furnish to the Exchange at the President's request (or, in the case of the President, to the Chairman of the Board at his or her request) account statements and other documents relevant to the trading activities that are so exempted; and

(ii) inform the President (or, in the case of the President, the Chairman of the Board) within one Business Day of any material change of information that may affect the employee's qualification for such exemption.

(d) No employee of the Exchange or consultant to the Exchange may disclose to any other Person any material non-public information obtained as a result of employment by the Exchange; provided, however, that this Section shall not prohibit disclosures made by such an employee in the course of such employee's or consultant's duties, or disclosures made to any other Self-Regulatory Organization, a court of competent jurisdiction or any representative of any agency or department of the federal or state government acting in his or her official capacity.

(e) Terms used in this Section and not defined in these Bylaws shall have the meanings set forth in Section 1.59(a) of the Commission Regulations.

(f) If the President (or, in the case of the President, the Chairman of the Board), in his or her sole discretion, finds that any employee or consultant has committed a violation of this Section, such employee or consultant shall be subject to such sanctions, including but not limited to demotion, suspension or discharge, as the President (or, in the case of the President, the Board), in his, her or its sole discretion, deems appropriate.

## ARTICLE VIII

### INDEMNIFICATION

Section 8.1. [Reserved].

Section 8.2. Indemnification.

(a) Actions, Suits or Proceedings Other Than by or in the Right of the Exchange. The Exchange shall indemnify any current or former director or officer of the Exchange, and may at the discretion of the Board indemnify any current or former employee or agent of the Exchange or non-Board committee member, who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative (other than an action by or in the right of the Exchange) by reason of the fact that such person is or was a director, officer, employee or agent of the Exchange, or is or was serving at the request of the Exchange as a director, officer, employee or agent (including trustee) of another limited liability company, corporation, partnership, joint venture, trust or other enterprise (including employee benefit plans) to the fullest extent permissible under applicable law, as then in effect, against expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by such person in connection with such action, suit or proceeding, if he or she acted in good faith and in a manner he or she reasonably believed to be in or not opposed to the best interests of the Exchange, and, with respect to any criminal action or proceeding, had no reasonable cause to believe that his or her conduct was unlawful; except that any funds paid or required to be paid to any person as a result of the provisions of this Section shall be returned to the Exchange or reduced, as the case may be, to the extent that such person receives funds pursuant to an indemnification from any such other limited liability company, corporation, partnership, joint venture, trust or enterprise. The termination of any action, suit or proceeding by judgment, order, settlement, conviction or upon a plea of nolo contendere or its equivalent, shall not, of itself, create a presumption that the person seeking indemnification did not act in good faith and in a manner which he or she reasonably believed to be in or not opposed to the best interests of the Exchange, and, with respect to any criminal action or proceeding, had no reasonable cause to believe that his or her conduct was unlawful.

(b) Actions or Suits by or in the Right of the Exchange. The Exchange shall indemnify any current or former director or officer of the Exchange, and may at the discretion of the Board, indemnify any current or former employee or agent of the Exchange who was or is a party or is threatened to be made a party to any threatened, pending or completed action or suit, by or in the right of the Exchange to procure a judgment in its favor by reason of the fact that such person is or was a director, officer, employee or agent of the Exchange, or is or was serving at the request of the Exchange as a director, officer, employee or agent (including trustee) of another limited liability company, corporation, partnership, joint venture, trust or other enterprise (including employee benefit plans) to the fullest extent permitted under applicable law, as then in effect, against expenses (including attorneys' fees) actually and reasonably incurred by such person in connection with the defense or settlement of such action or suit, if he or she acted in good faith and in a manner he or she reasonably believed to be in or not opposed to the best interests of the

Exchange; except that (i) no indemnification shall be made in respect of any claim, issue or matter as to which such person shall have been adjudged to be liable to the Exchange unless and only to the extent that the Court of Chancery of the State of Delaware or the court in which such action or suit was brought shall determine upon application that, despite the adjudication of liability but in view of all the circumstances of the case, such person is fairly and reasonably entitled to indemnity for such expenses which the Court of Chancery or such other court shall deem proper; and (ii) any funds paid or required to be paid to any person as a result of the provisions of this Section shall be returned to the Exchange or reduced, as the case may be, to the extent that such person receives funds pursuant to an indemnification from any such other limited liability company, corporation, partnership, joint venture, trust or enterprise.

(c) Indemnification for Expenses of Successful Party. To the extent that a director, officer, employee or agent of the Exchange has been successful on the merits or otherwise in defense of any action, suit or proceeding referred to in paragraph (a) or (b) of this Section, or in defense of any claim, issue or matter therein, such person shall be indemnified by the Exchange against expenses (including attorneys' fees) actually and reasonably incurred by him or her in connection therewith.

(d) Determination of Right to Indemnification. Any indemnification under paragraph (a) or (b) of this Section (unless ordered by a court) shall be made by the Exchange only as authorized in the specific case upon a determination that indemnification of the director, officer, employee or agent is proper in the circumstances because such person has met the applicable standard of conduct set forth in paragraphs (a) and (b) of this Section. Such determination shall be made (i) by the Board by a majority vote of the directors who are not parties to such action, suit or proceeding, even though less than a quorum, or (ii) if there are no such directors, or if such directors so direct, by independent legal counsel in a written opinion, or (iii) by the holders of the Shares.

(e) Advancement of Expenses. Expenses (including attorneys' fees) incurred by an officer or director in defending any civil, criminal, administrative or investigative action, suit or proceeding shall be paid by the Exchange in advance of the final disposition of such action, suit or proceeding upon receipt of an undertaking by or on behalf of such director or officer to repay such amount if it shall ultimately be determined that such person is not entitled to be indemnified by the Exchange as authorized in this Section. Such expenses (including attorneys' fees) incurred by other employees and agents may be so paid upon such terms and conditions, if any, as the Board deems appropriate.

(f) Other Rights. The indemnification and advancement of expenses provided by, or granted pursuant to, the other paragraphs of this Section shall not be deemed exclusive of any other rights to which those seeking indemnification or advancement of expenses may be entitled under these Bylaws, any agreement, vote of Shareholders or disinterested directors or otherwise, both as to action in an official capacity and as to action in another capacity while holding such office.

(g) Insurance. By action of the Board, notwithstanding an interest of the directors in the action, the Exchange may purchase and maintain insurance, in such amounts as the

Board deems appropriate, on behalf of any person who is or was a director, officer, employee or agent of the Exchange, or is or was serving at the request of the Exchange as a director, officer, employee or agent (including trustee) of another limited liability company, corporation, partnership, joint venture, trust or other enterprise (including employee benefit plans), against any liability asserted against such person and incurred by such person in any such capacity, or arising out of such person's status as such, whether or not the Exchange shall have the power to indemnify such person against such liability under the provisions of this Section.

Section 8.3. Enforcement.

(a) The right to be indemnified or to the advancement or reimbursement of expenses pursuant to this Article:

(i) is a contract right pursuant to which the individual entitled thereto may bring suit as if the provisions hereof or of any such resolution were set forth in a separate written contract between the Exchange and such individual, and

(ii) shall continue to exist after any rescission or restrictive modification hereof or of any such resolution or agreement with respect to events occurring prior thereto.

(b) If a request to be indemnified or for the advancement or reimbursement of expenses pursuant to this Article is not paid in full by the Exchange within 30 days after a written claim has been received by an officer of the Exchange therefor and the claimant thereafter brings suit against the Exchange to recover the unpaid amount of the claim which is successful in whole or in part, the Exchange shall be obligated to pay the claimant the expenses, including attorneys' fees and expenses, of prosecuting such claim.

Section 8.4. Amendment or Repeal. Any repeal or modification of the foregoing provisions of this Article VIII shall not adversely affect any right or protection hereunder of any Person in respect of any act or omission occurring prior to the time of such repeal or modification.

Section 8.5. Exception. Notwithstanding anything in this Article VIII to the contrary, the Exchange shall not indemnify any Person with respect to fines imposed by the Commission under the Act.

## ARTICLE IX

### MISCELLANEOUS PROVISIONS

Section 9.1. Fiscal Year. The fiscal year of the Exchange for accounting and tax purposes shall be fixed by the Board.

Section 9.2. Office. The registered office of the Exchange shall be located at Corporation Trust Center, 1209 Orange Street, in the City of Wilmington, County of Kent, in the State of Delaware and said corporation shall be the registered agent of this Corporation in charge

thereof. The Exchange may have other offices either within or without the State of Delaware at such places as shall be determined from time to time by the Board of Directors or the business of the Exchange may require.

Section 9.3. Caption. Section titles or captions contained in these Bylaws are inserted only as a matter of convenience and for reference and in no way define, limit, extend or describe the scope of these Bylaws or the intent of any provision hereof.

## ARTICLE X

### AMENDMENTS

#### Section 10.1. Amendments.

(a) The vote of the holders of at least a majority of the shares of stock of the Exchange, issued and outstanding and entitled to vote, shall be necessary at any meeting of stockholders to amend or repeal these Bylaws or to adopt new by-laws. These Bylaws may also be amended or repealed, or new by-laws adopted, at any meeting of the Board of Directors by the vote of at least a majority of the entire Board; provided that any by-law adopted by the Board may be amended or repealed by the stockholders in the manner set forth above.

(b) Any proposal to amend or repeal these Bylaws or to adopt new by-laws shall be stated in the notice of the meeting of the Board of Directors or the stockholders, or in the waiver of notice thereof, as the case may be, unless all of the directors or the holders of record of all of the shares of stock of the Exchange, issued and outstanding and entitled to vote, are present at such meeting.

## TABLE OF CONTENTS

	<u>Page</u>
ARTICLE I DEFINITIONS.....	1
Section 1.1. Definitions.....	1
ARTICLE II SHAREHOLDERS.....	3
Section 2.1. Time and Place of Meetings.....	3
Section 2.2. Annual Meeting.....	3
Section 2.3. Special Meetings of Shareholders.....	3
Section 2.4. Notices.....	4
Section 2.5. Quorum.....	4
Section 2.6. Voting.....	4
Section 2.7. Shareholder List.....	4
Section 2.8. Proxies.....	5
Section 2.9. Written Consent in Lieu of a Meeting.....	5
Section 2.10. Record Date.....	5
Section 2.11. Shareholders of Record.....	5
ARTICLE III DIRECTORS.....	6
Section 3.1. Duties, Powers and Eligibility.....	6
Section 3.2. Number, Election or Appointment; Tenure.....	7
Section 3.3. Resignation and Removal.....	9
Section 3.4. Vacancies.....	9
Section 3.5. Compensation.....	9
Section 3.6. Eligibility for Service on Boards and Committees.....	9
Section 3.7. Improper Use or Disclosure of Material, Non-Public Information.....	12
Section 3.8. Emergency Powers.....	12
ARTICLE IV MEETINGS OF THE BOARD.....	14
Section 4.1. Time and Place.....	14
Section 4.2. Annual Meeting.....	14
Section 4.3. Regular Meetings.....	15
Section 4.4. Special Meetings.....	15
Section 4.5. Quorum and Voting.....	15
Section 4.6. Notices.....	18
Section 4.7. Written Consents in Lieu of a Meeting.....	18
Section 4.8. Telephonic Participation in Meetings.....	18
ARTICLE V COMMITTEES.....	18
Section 5.1. Designation and Powers.....	18

Section 5.2. Meetings of Committees.....	19
Section 5.3. Advisory Committee.....	19
Section 5.4. Executive Committee .....	20
ARTICLE VI NOTICES.....	20
Section 6.1. Delivery of Notices.....	20
Section 6.2. Waiver of Notice.....	20
ARTICLE VII OFFICERS, EMPLOYEES AND CONSULTANTS .....	20
Section 7.1. Officers .....	20
Section 7.2. Other Officers and Agents.....	20
Section 7.3. Tenure; Resignation; Removal; Vacancies.....	21
Section 7.4. Compensation .....	21
Section 7.5. Authority and Duties .....	21
Section 7.6. Chairman of the Board .....	21
Section 7.7. President .....	21
Section 7.8. The Vice President(s) .....	21
Section 7.9. The Treasurer.....	22
Section 7.10. The Secretary .....	22
Section 7.11. Restrictions on Trading and Disclosure by Employees and Consultants .....	22
ARTICLE VIII INDEMNIFICATION.....	23
Section 8.1. [Reserved].....	23
Section 8.2. Indemnification.....	23
Section 8.3. Enforcement.....	26
Section 8.4. Amendment or Repeal.....	26
Section 8.5. Exception.....	26
ARTICLE IX MISCELLANEOUS PROVISIONS .....	26
Section 9.1. Fiscal Year .....	26
Section 9.2. Office .....	26
Section 9.3. Caption .....	26
ARTICLE X AMENDMENTS .....	27
Section 10.1. Amendments .....	27

## INDEX

Act.....	2, 6, 10, 11, 13, 22
Board.....	3, 5, 6, 7, 8, 9, 10, 12, 13, 15, 16, 17, 18, 20, 21, 22, 23, 24, 25, 26
Business Day.....	23
Bylaws.....	23, 25, 27
Certificate of Incorporation.....	7
Class A Shareholders.....	7
Class A Shares.....	7, 25
Clearing Organization.....	2, 13, 19, 22
Commission.....	10, 11, 12, 13, 14
Commission Regulation.....	11
Commission Regulations.....	2, 9, 13, 16, 18, 23
Commodity.....	2, 3, 14
Contract.....	12
Contracts.....	6, 12, 14
Control.....	1
Delaware GCL.....	1, 6, 13, 24
Director.....	6, 8, 9, 15, 19, 20, 21, 24, 25
Directors.....	4, 5, 7, 9, 15, 18, 19, 20, 21, 25
Disciplinary Committee.....	9, 19
Disciplinary Offense.....	11
Entity.....	3
Exchange.....	2, 4, 5, 6, 7, 8, 9, 12, 13, 14, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26
Executive Committee.....	19, 20
Final Decision.....	11
Futures Contract.....	2, 3
Governmental Agency.....	10
Guarantor.....	13
onExchange.....	1, 2, 3
Person.....	6, 7, 13, 19, 23, 26
Public Director.....	8
Rules.....	6, 11, 13, 14, 19, 21
Settlement Agreement.....	12
Shareholder.....	4, 5, 6, 20
Shares.....	4, 5, 7
Subscriber.....	8, 13, 14
Underlying Commodity.....	14