



January 18, 2022

BY ELECTRONIC FILING

Mr. Christopher J. Kirkpatrick  
Office of the Secretariat  
Commodity Futures Trading Commission  
Three Lafayette Centre  
1155 21st Street, N.W.  
Washington, D.C. 20581

**Re: Self Certification of Changes to Limited Liability Company Agreement (Eris Exchange, LLC Submission #2022-01E)**

Dear Mr. Kirkpatrick:

Eris Exchange, LLC (“Eris Exchange” or “Company”) hereby submits for self-certification to the Commodity Futures Trading Commission (the “Commission”), under Commission regulation 40.6(a), amendments to its Limited Liability Company Agreement and committee Charters to conform to governance changes following acquisition of the ErisX group of companies by Cboe Digital Holdings, LLC, which is anticipated to occur by June 30, 2022 (the “Acquisition”) (together the “Changes”). The Changes will become effective on the later of February 1, 2022, and the date of the closing of the Acquisition (if the Acquisition does not occur, the changes described herein will not take effect).

### **Explanation and Analysis**

Following the announcement in October 2021 of the Acquisition, and in anticipation of the closing, the following general changes are undertaken to the Limited Liability Company Agreement:

1. The number of Board members is increased from five (5) to six (6) Board members;
2. The role of the Chairman of the Board is introduced;
3. The role of Board Observers is introduced;
4. The enumerated list of items requiring Member consent is amended to reflect governance preferences;
5. Conforming changes are made throughout to reflect that the Company has a single limited liability company Member; and
6. The Nominating Committee is eliminated.

The following general changes are undertaken to the committee Charters:



1. The Charter of the Regulatory Oversight Committee is updated to eliminate reference to the National Futures Association (NFA); and,
2. The Charter of the Exchange Practices Committee is updated to eliminate the requirement that the chair of the committee is a public director.

### **Description of Rule Changes**

The following Eris Exchange Rules are being amended:

Definitions - “Operating Agreement of Eris Exchange” is updated.

Rule 205 - Updated to reflect that Eris Exchange will have three standing committees following the elimination of the Nominating Committee.

Rule 206 - With the Nominating Committee eliminated, this rule is now deleted and reserved.

Rule 207 - The numerical composition requirement of the Exchange Participant Committee is eliminated, preserving the requirement for 35% Public Directors.

Rule 208 - The numerical composition requirement of the Regulatory Oversight Committee is eliminated, preserving the requirement for 100% Public Directors.

Rule 210 - The numerical composition requirement of the Exchange Practices Committee is eliminated, preserving the requirement for 35% Public Directors.

### **Core Principle Compliance**

The Exchange’s staff has identified that the following designated contract market core principles (“Core Principles”) may be potentially impacted:

Composition of Governing Boards of Contract Markets (Core Principle 17) - the governance arrangements are designed to permit consideration of the views of market participants.

### **Public Information**

A notice and copy of this submission has been concurrently posted on the Exchange’s website at <https://www.erisx.com/regulation/exchange-notices/> under “CFTC Submissions.”

### **Opposing Views**

This submission was provided to the Regulatory Oversight Committee, the Exchange Practices Committee, and the Exchange Participant Committee. There were no opposing views to this Self-Certification.



### **Certification**

Eris Exchange, LLC hereby certifies to the Commodity Futures Trading Commission, pursuant to the procedures set forth in Commission regulation §40.6, that this submission complies with the Commodity Exchange Act, as amended, and the regulations promulgated thereunder.

If you have any questions, please feel free to contact the undersigned at the information below.

Sincerely,

/s/

Laurian Cristea

[laurian.cristea@erisx.com](mailto:laurian.cristea@erisx.com)

646.961.4487



## **EXHIBIT A**

Redline Changes to the LLC Agreement of Eris Exchange

**SECOND AMENDED AND RESTATED  
LIMITED LIABILITY COMPANY AGREEMENT  
OF  
ERIS EXCHANGE, LLC**

This **SECOND** AMENDED AND RESTATED LIMITED LIABILITY COMPANY AGREEMENT of ERIS EXCHANGE, LLC (such agreement, as amended from time to time, shall be referred to herein as this “**Agreement**”), effective as of ~~April 18~~<sup>[●]</sup>, ~~2011~~2022 (the “**Effective Date**”), is entered into by Eris ~~Exchange~~Digital Holdings, LLC, a Delaware limited liability company (“~~Holdings~~”), ~~as Member (as hereinafter defined)~~, and each of those other ~~Members~~members executing this Agreement from time to time in accordance with the terms hereof.

**EXPLANATORY ~~STATEMENT~~STATEMENTS**

A. The Company was formed pursuant to a Certificate of Formation (the “**Certificate**”) filed with the Secretary of State of Delaware on February 4, 2010, and has been operating pursuant to the provisions of the Company’s Amended and Restated Limited Liability Company Agreement dated as of ~~June 23~~April 18, 20102011 (the “~~Original~~A&R LLC Agreement”).

B. ~~Holdings~~The Member has determined to amend and restate the ~~Original~~A&R LLC Agreement to, among other things, ~~establish a Board of Directors of the Company and otherwise~~ govern the management and operation of the Company and the relationship of the parties in accordance with the terms and subject to the conditions set forth in this Agreement.

**AGREEMENT**

For good and valuable consideration, the parties, intending legally to be bound, agree as follows:

**Section I  
Defined Terms**

In addition to any terms that are defined in the text of this Agreement, capitalized terms shall have the meanings ascribed to them in Exhibit B of this Agreement.

**Section II  
Formation and Name; Office; Purpose; Term**

The Company was formed upon the execution and filing of the Certificate with the Secretary on February 4, 2010. The name of the Company ~~shall be~~is “Eris Exchange, LLC.” The Company may do business under that name and under any other name or names upon which the ~~Members~~Member may determine. The purposes of the Company shall be to engage in any lawful act or activity for which limited liability companies may be organized under the Act as determined by the ~~Members~~Member. The term of the Company began upon the filing of the Certificate and shall continue in perpetual existence until dissolved pursuant to this Agreement. The registered office of the Company in the State of Delaware shall be as set forth in the

Certificate, or at such other place as the Member may designate from time to time. The principal office and place of business of the Company shall be located at ~~311 South Wacker Drive, Suite 950, Chicago, IL 60606, or at such other~~ such place as the ~~Members~~ Member may designate from time to time.

The name and address of the Company's registered agent in the State of Delaware shall be as set forth in the Certificate, or at such other place as the Member may designate from time to time. The name, present mailing address, taxpayer identification number and Percentage Interest of ~~each~~ the Member are set forth on Exhibit A. The ~~Members~~ Member shall have the right to admit additional ~~Members~~ members from time to time as ~~they determine in their~~ determines in its sole discretion. If at any time the ~~Members deem~~ Member deems it to be in the best interest of the Company to raise additional equity capital to properly carry out the Company's business and operations, the ~~Members~~ Member shall have the right to (i) raise additional equity capital for infusion into the Company from ~~Members~~ members or other Persons on terms that may be senior to, junior to, or on parity with, the terms of the Interests held by then existing ~~Members~~ members, and (ii) ~~to~~ admit the Persons investing such equity capital as additional ~~Members~~ members. In addition, the Company may obtain funds through loans (which may be made by ~~at~~ the Member) having such terms and conditions as the ~~Members~~ Member, in ~~their~~ its reasonable discretion, ~~deem~~ deems to be in the best interest of the Company. The ~~Members~~ Member shall amend Exhibit A from time to time to reflect changes in the identity of the ~~Members~~ members and changes in information set forth on Exhibit A. This Agreement is the limited liability company agreement of the Company within the meaning of the Act.

### **Section III Capital**

It is acknowledged that ~~Holdings~~ the Member has made all capital contributions to the capital of the Company required to be made by ~~Holdings~~ the Member as of the date hereof. From time to time the ~~Members~~ Member may, but shall not be obligated to, contribute additional capital or make loans to the Company, all at such times and upon such terms as the ~~Members~~ Member shall approve, acting in ~~their~~ its sole discretion. ~~No~~ The Member ~~or Interest Holder~~ shall not be required to contribute any additional capital to the Company, and ~~no~~ the Member ~~or Interest Holder~~ shall not have any personal liability for any obligations of the Company.

### **Section IV Profit, Loss and Distributions**

Cash Flow for each taxable year of the Company shall be distributed to the ~~Interest Holders~~ Member, at such time as determined by the Board, ~~in proportion to the Interest Holders' respective Percentage Interest~~. All Profit or Loss shall be allocated to the ~~Interest Holders in proportion to their respective Percentage Interest~~ Member. If the Company is dissolved, the assets of the Company shall be distributed as provided in **Section VII**.

## Section V Management of the Company

(a) Management by the ~~Members~~Member. Subject to **Section V(b)**, the Company shall be managed by and all decisions regarding the Company shall be made by the ~~Members.~~ ~~An act of a Majority in Interest of the Members shall be the act of the Members hereunder~~Member.

(b) Delegation of Authority to the Board of Directors. Notwithstanding **Section V(a)** above, except as otherwise set forth herein, ~~including, but not limited to, Section V(h), the Members hereby delegate~~the Member hereby delegates authority over the business and affairs of the Company to ~~a~~the Board of Directors of the Company (the “**Board**”). Except as otherwise specifically provided herein, the Board shall have full, exclusive and complete discretion to manage and control the business and affairs of the Company, to make all decisions affecting the business and affairs of the Company and to take all such actions as it deems necessary or appropriate to accomplish the purposes of the Company as set forth herein. Except as otherwise provided herein or expressly authorized by the Board, ~~no~~the Member of the Company shall not have, and no other Person, shall have the authority or power, directly or indirectly, to act as agent of the Company 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 Company or in any other way bind the Company or hold itself out as acting for or on behalf of the Company. Any attempted action in contravention of **Sections V(a)-(g)** shall be null, void *ab initio* and not binding upon the Company, unless ratified or authorized in writing by the Board.

(c) Number; Election; Tenure; Compensation; Reimbursement. Commencing on the date of this Agreement, the Board shall consist of ~~five~~six (56) directors (the “**Directors**”). One Director shall be designated by the Member to serve as the Chairman. The Directors shall be appointed by ~~a Majority in Interest of the Members~~Member; provided, however, that, at all times ~~that~~, not fewer than thirty-five percent (35%) of the Directors shall be “public directors”, as such term is defined by applicable CFTC regulation (“**Public Directors**”), as determined by ~~a Majority in Interest of the Members~~Board. Subject to applicable law, the number of Directors constituting the Board may be increased or decreased from time to time by ~~a Majority in Interest of the Members~~Member; provided that the Board shall consist of not fewer than five (5) Directors. Each Director shall have the duties (including fiduciary duties) that the directors of a Delaware corporation have to a corporation under Delaware General Corporation Law. No Director shall be entitled to be compensated for any services provided to the Company, except as authorized in writing by the Board. The Company shall reimburse each of the Directors for reasonable business expenses incurred by any such Director on behalf of the Company, which expenses will be treated as expenses of the Company.

(d) Resignation. Each Director shall hold office until his or her successor is appointed and has qualified, or until his or her earlier resignation or removal. A Director may resign at any time by giving written notice to the Board. A resignation shall be effective upon receipt thereof by the Board unless the notice specifies a future date. The acceptance of a resignation shall not be necessary to make it effective. Any one or more of the Directors (i) shall automatically, without any further action by the Board or the ~~Members~~Member, be removed from such position due to such Director’s death, and (ii) may be removed from such position,

either with or without cause, ~~at any time by the consent of a Majority in Interest of Members by the Member~~. Following the resignation of any Director, such Director and the Persons described in **Section VIII** shall remain entitled to indemnification from the Company to the extent available under such Section with respect to any matter arising prior to its or their resignation.

(e) Vacancy. Any vacancies occurring on the Board shall be filled by ~~a Majority in Interest of the Members~~the Member in accordance with Section V(c); provided that at all times at least thirty-five percent (35%) of the Directors shall be Public Directors and any vacancies with respect to Public Directors shall be filled by the Board.

(f) Meetings of the Board.

(i) Time and Place. Meetings of the Board shall be held at the principal place of business of the Company or at any other place that ~~at least two-thirds (2/3) of the Directors determine~~the Board determines. At any meeting, any Director may participate by telephone or similar communication equipment, provided each Director who is participating in the meeting can hear each of the other Directors who are participating in the meeting. ~~Persons~~Directors present by telephone or similar communication equipment shall be deemed to be present "in person" for the purposes of the meeting. Meetings shall be held in accordance with a schedule established by the Board. ~~In addition, at any time two-thirds (2/3) of the Directors may call a meeting~~Meetings of the Board may be called by the Chairman or by any two (2) Directors upon at least one (1) Business Day's prior notice to the other Directors, provided such notice may be waived by all of the Directors for any individual meeting. Attendance of a Director at a meeting shall constitute a waiver of notice of the meeting, except where such Director attends for the express purpose of objecting to the transaction of any business because the meeting is not lawfully called or convened and notes such objection on the record. ~~If a Director is unable to attend a meeting of the Board, such Director shall have the right to designate another Person to attend such meeting of the Board in a nonparticipating, non-voting observer capacity.~~ Notwithstanding any other provision of this Agreement to the contrary, a notice pursuant to this Section may be given orally or otherwise as set forth in **Section X** of this Agreement.

(ii) Quorum and Voting. Each Director shall have one (1) vote in all matters requiring a vote of the Board. A majority of the entire Board shall constitute a quorum at any meeting of the Board. ~~The act of~~Except as otherwise required by law, the act of the Board Members possessing a majority of the Directors at any duly constitutedvotes in the aggregate present at the meeting, ~~if a quorum is~~excluding from the votes present for such purposes any abstentions or recusals, shall be the act of the Board. If at any meeting of the Board there shall be less than a quorum present, the Director(s) present thereat may adjourn the meeting, without notice other than announcement at the meeting, until a quorum shall have been



obtained. Any meeting not resumed, or if resumed not completed, during the originally scheduled time for such meeting, shall be deemed concluded at the end of such scheduled time; provided that this provision may be waived by all of the Directors present at any such meeting. ~~Subject to Section V(h), all~~ All actions and decisions of the Board, once approved in accordance herewith, shall be binding on the Company and the Member.

(iii) Written Consents in Lieu of a Meeting. Any action required or permitted to be taken at any meeting of the Board may be taken without a meeting, without prior notice and without a vote, if a consent or consents in writing, setting forth the action(s) so taken, shall be signed by a majority of the Directors (one of whom shall be the Chairman).

(g) Committees.

(i) Designations and Powers. The Board may in its sole discretion, but subject to any requirements under applicable law, including, but not limited to, the CEA and CFTC regulations promulgated thereunder, (x) appoint one or more committees of the Board consisting of one or more of the Directors of the Company or other individuals and authorize and adopt a charter for such committee setting forth such committee's powers, authorities and responsibilities (a "**Charter**"), (y) designate one or more Directors or other individuals as alternate members of any committee, who may replace any absent or disqualified member at any meeting of the committee, and (z) appoint a chairperson of any such committee. The number of Directors or other individuals serving on any committee may, subject to any requirements under applicable law, including, but not limited to, the CEA and CFTC regulations promulgated thereunder, be increased or decreased from time to time by the Board. Any such committee, to the extent provided in a resolution of the Board or in this Agreement, shall have and may exercise all the powers and authority of the Board in the management of the business and affairs of the Company.

(ii) Exchange Participant Committee. The Board shall appoint an Exchange Participant Committee (the "**Exchange Participant Committee**") which will consist of such number of Directors as established by resolution adopted by the Board, provided that the Exchange Participant Committee shall at all times consist of not less than thirty-five percent (35%) Public Directors. The Exchange Participant Committee shall have those powers, authorities, and responsibilities delegated to it by the Board in its Charter.

(iii) Exchange Practices Committee. The Board shall appoint an Exchange Practices Committee (the "**Exchange Practices Committee**") which shall consist of such number of Directors as established by resolution adopted by the Board, provided that the Exchange Practices Committee shall at all times consist of not less than thirty-five percent (35%) Public Directors.

The Exchange Practices Committee shall have those powers, authorities, and responsibilities delegated to it by the Board in its Charter.

~~(iv) Nominating Committee. The Board shall appoint a Nominating Committee (the “Nominating Committee”) which shall consist of such number of Directors as established by resolution adopted by the Board; provided that the Nominating Committee shall at all times consist of not less than fifty one percent (51%) Public Directors. The Nominating Committee shall have those powers, authorities, and responsibilities delegated to it by the Board in its Charter.~~

(~~v~~iv) Regulatory Oversight Committee. The Board shall appoint a Regulatory Oversight Committee (the “**Regulatory Oversight Committee**”) which shall consist of such number of Directors as established by resolution adopted by the Board, provided that the Regulatory Oversight Committee shall at all times consist entirely (100%) of Public Directors. The Regulatory Oversight Committee shall have those powers, authorities, and responsibilities delegated to it by the Board in its Charter.

(~~v~~iv) Meetings of Committees. Meetings of any committee may be held at any time or place as shall be determined by resolution of the committee, the chairperson of the committee or any two (2) members of the committee. Notice of any meeting of a committee shall be given in the same manner as notice of any meeting of the Board as provided in **Section V(e)(i)**. A majority of the entire committee shall constitute a quorum at any meeting of a committee. The act of a majority of the members of a committee at any duly constituted meeting, if a quorum is present, shall be the act of the committee. Any action required or permitted to be taken at any meeting of a committee may be taken without a meeting, without prior notice and without a vote, if a consent or consents in writing, setting forth the action so taken, shall be signed by the requisite number of members of such committee. Any member of a committee may participate by telephone or similar communications equipment, provided each member who is participating in the meeting can hear each of the other members who are participating in the meeting. Persons present by telephone or similar communications equipment shall be deemed to be present “in person” for the purposes of the meeting. The foregoing shall be subject to the specific terms of each committee’s Charter and in the event of an inconsistency between a Charter and this Agreement, the terms of such Charter shall govern.

(~~v~~iv) Reports to the CFTC. In the event that the Board rejects any recommendation or supersedes any action of the Regulatory Oversight Committee or the Exchange Participant Committee, the Company shall prepare and submit to the CFTC a report detailing (w) the recommendation or action of the Regulatory Oversight Committee or the Exchange Participant Committee, as applicable, (x) the rationale for such

recommendation or action, (y) the rationale of the Board for rejecting such recommendation or superseding such action, and (z) the course of action the Board decided to take contrary to such recommendation or action.

(h) Board Observers. The Member shall have the right to appoint observers to the Board (each, an “Observer”). Such Observers shall serve for a term of one (1) year. Such Observers shall be entitled to (x) receive contemporaneously the same notice and other materials in respect of all meetings (or written consents) of the Board as are furnished to the Directors, (y) attend all meetings (and review all written consents) of the Board, and (z) participate in all discussions conducted at meetings (or with respect to actions to be taken by written consent) of the Board; provided, however, such Observers shall not constitute a Director and shall not be entitled to vote on any matters presented to the Board and may be removed for any or no reason by the Board upon notice thereof; provided further that such Observers may be required to leave, or not be allowed to attend, any meetings (or may not receive certain materials) if and to the extent a conflict of interest, confidentiality concern or privilege arises or may arise in connection with the issues being discussed (or described in such materials), regulatory issues may arise or be discussed with respect to which it would be inappropriate for the Observers to participate, or another reasonable basis exists for excluding the Observers, in each case as determined by the Chairman in his or her reasonable discretion.

(h) Required Member Consent. Notwithstanding anything to the contrary contained herein, the Board shall not approve or undertake or authorize any other Person to approve or undertake, and shall not have the power or authority to approve or authorize any other Person to approve or undertake any of the following actions with respect to the Company without the prior written consent of ~~a Majority in Interest of the Members~~ Member:

- (i) enter into ~~or~~, approve ~~an equity incentive plan, option plan, appreciation plan, phantom plan, profit participation or similar rights plan with respect to the Company~~ or adopt an annual business plan or annual budget;
- (ii) ~~appoint a new president, chief executive officer, chief financial officer, chief operating officer, any executive vice president or any other officer comprising senior management of the Company, or the termination (other than for cause) of or material change in the compensation (including equity compensation) of any then-existing president, chief executive officer, chief financial officer, chief operating officer, any executive vice president or any other officer comprising senior management of the Company;~~
- (iii) ~~acquire or dispose of any business or any material assets;~~
- ~~(ii) make any loans or advances to any Person other than in the ordinary course of business;~~
- ~~(iii) incur any capital expenditure or expense, or enter into any commitment for any such capital expenditure or expense (whether in cash, by check, or otherwise) in excess of \$200,000;~~

- (iv) ~~permit any Member to voluntarily withdraw or otherwise resign as a Member from the Company~~approve, recommend, consummate or participate in any Sale Transaction;
- (v) ~~sell, lease, encumber, transfer or otherwise dispose of any assets of the Company or any of its Subsidiaries, having a value in excess of \$200,000;~~cause any material change in the line(s) of business of the Company and its subsidiaries, taken as a whole, from the business conducted by the Company and its subsidiaries as of the date hereof;
- (vi) ~~create, incur, assume or suffer to exist any indebtedness in respect of money borrowed (regardless of the time period for repayment of such indebtedness), in excess of \$200,000;~~
- (vii) ~~redeem, repurchase or otherwise acquire any Interest or any other equity interests of the Company or any interests or instruments directly or indirectly convertible, excisable or exchangeable for Interest or other equity interests of the Company, or accept any additional capital contributions;~~
- (viii) ~~acquire any securities, debt, or other assets of any party, other than in connection with the operation of the business of the Company in the ordinary course of business;~~
- (ix) ~~change or expand the current business of the Company or enter into new or related lines of business;~~
- (~~x~~vi) ~~create, authorize, offer, issue, or sell to any Person an Interest or other equity interest of the Company or any interest~~any Interests or any interests or other instruments directly or indirectly convertible, exercisable, or exchangeable for ~~equity interests of the Company, or accept any additional capital contributions~~Interests;
- (~~xiv~~vii) ~~admit a new Members or substituted Members~~Member to the Company;
- (xii) ~~enter into (directly or indirectly) any transaction with any Member or affiliate of the Company or other affiliates, any of their respective affiliates, or any entity in which any Member or other affiliate of the Company or any of their respective affiliates may have an interest;~~
- (xiii) ~~become subject to any agreement or instrument which by its terms would (under any circumstances) restrict the Company's or any of its Member's right to carry on its business or perform any of its obligations under the Certificate or this Agreement;~~
- (viii) create or grant any security interest, encumbrance or guarantee on the assets of the Company or any of its subsidiaries;

- (ix) incur indebtedness for borrowed money;
- (x) approve, initiate or consummate a reorganization, liquidation or dissolution of the Company;
- (xi) initiate or settle any litigation or any other action, suit or similar proceeding;
- (xii) finalize or settle any administrative or judicial disputes with any taxing or other governmental authority;
- (xiii) select, cause appointment or replace the auditors of the Company or its Subsidiaries;
- (xiv) ~~approve or take any action in connection with a conversion of the Company into one or more different entities or forms, including, but not limited to, a conversion into a corporation;~~ file any tax returns and statements with respect to the Company or any subsidiary or the assets of the Company or any subsidiary;
- (xv) ~~change or amend the Company's organizational documents (including the Certificate and this Agreement)~~ any accounting policy or make any ~~other~~ tax election or decision or change in ~~the rights, preferences, or privileges of the Members, or any change in the capital structure~~ tax classification of the Company, ~~except as otherwise provided in this Agreement;~~
- (xvi) ~~enter into an agreement regarding, or consummate, a Sale Transaction;~~ amend the Company's organizational documents or documents related to the Interests; or
- (xvii) ~~merge or consolidate the Company with any Person pursuant to a transaction that does not constitute a Sale Transaction;~~ redeem, repurchase or otherwise acquire any Interests or other instruments directly or indirectly convertible, exercisable or exchangeable for Interests.
- (xviii) ~~take or effect any action that would render the Company bankrupt or insolvent or cause the termination, dissolution, liquidation or winding up of the Company; or~~
- (xix) ~~take or effect any action that specifically requires the consent or approval of the Members pursuant to the terms of this Agreement~~

(j) Officers. Any Officer authorized and appointed to act by the Board shall have full power and authority to act for and bind the Company for the purposes so authorized or appointed and third parties may rely upon such authorization or appointment. The Officers of the Company may include a president, chief executive officer, ~~a~~ chief regulatory officer, and/or such other Officers as the Board may establish from time to time. Each Officer shall hold office

until his or her successor is elected or appointed or until his or her earlier displacement from office by resignation, removal or otherwise; provided that if the term of office of any Officer elected or appointed pursuant to this **Section V(i)** 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 resign by written notice to the Company and may be removed with or without cause by the Board whenever in its judgment the best interests of the Company will be served thereby.

(j) **Disciplinary Panels.** The Board may, in its sole discretion, but subject to any requirements under applicable law, including, but not limited to, the CEA and CFTC regulations promulgated thereunder, establish one or more disciplinary panels, including, but not limited to, a disciplinary panel for appeals (each a “**Disciplinary Panel**”), each of which generally shall be responsible for conducting hearings, rendering decisions, and imposing sanctions with respect to disciplinary matters as determined by the Board. Except as the Board may otherwise determine from time-to-time, each Disciplinary Panel shall be comprised of three individuals, at least one of whom would qualify as a Public Director, and such person will chair the Disciplinary Panel. The number of individuals serving on any Disciplinary Panel (each a “**Disciplinary Panel Member**”) may, subject to any requirements under applicable law, be increased or decreased from time to time by the Board. The Disciplinary Panel Members shall be appointed by the Board and may be removed from such position, either with or without cause, at any time by the Board.

## **Section VI** **Transfer and Resignation**

~~Except as otherwise expressly permitted by this Agreement, no Member shall have the right, without the prior written consent of the Members, to Transfer all or any part of such Member's Membership Rights; provided, however, that if the Transfer is a transfer by operation of law by reason of the death of an individual Person, the dissolution of a non-individual Person or otherwise, and if the result of such Transfer would be the Resignation of the last remaining Member in the Company, then the transferee(s) will be automatically admitted as Member(s) in the Company (it being agreed that in the case of death of an individual Person, the estate of such Person shall automatically be admitted as a Member, subject to the remainder of this **Section VI**); provided further that any of such transferee(s) may elect, at any time on or before ninety (90) days after such Transfer to such transferee, to Resign as a Member in the Company, such Resignation to be effective retroactive to the date of such Transfer. Except as provided in the preceding sentence, no Member shall have the right to Resign without the prior written consent of a Majority in Interest of the Members. The Company shall not be obligated to purchase the Interests of any Person who has Resigned for its fair value or otherwise.~~

Notwithstanding any provision contained in this Agreement to the contrary, Holdings the Member shall have the right, ~~without the consent of the Members,~~ to Transfer all or any part of ~~Holdings' the Member's~~ Membership Rights, and such transferees shall automatically be deemed to be admitted as a ~~Member in~~ member of the Company. For purposes of this Agreement, a Transfer of Interests and other Membership Rights shall include any Transfer of any direct or indirect ownership interests in ~~at~~ the Member and any change in the power of a Person to direct the business and affairs of the Member by virtue of ownership of voting securities, contract or

otherwise. The Interests and other Membership Rights are securities governed by Article 8 of the Uniform Commercial Code as in effect in the State of Delaware. Interests and Membership Rights shall not be certificated. The transferee of a Transfer for collateral purposes shall not be admitted as a ~~Member in~~member of the Company until such time, if any, as the transferee has realized upon the Membership Rights pledged to it or has acquired such Membership Rights in lieu of such realization and such transferee expressly agrees in writing to be bound to the terms and conditions of this Agreement.

## **Section VII Dissolution**

The Company shall be dissolved only if ~~a Majority in Interest of the Member~~the Member determines to dissolve the Company or if the Company has no ~~Members and no Interest Holder agrees in writing, within thirty (30) days after the occurrence of the event pursuant to which the last Person ceased to be a Member, to become a Member and be bound by the terms and conditions of this Agreement~~members. If the Company is dissolved, the affairs of the Company shall be wound up. On winding up of the Company, the assets of the Company shall be distributed, first, to ~~non-Interest Holder~~ creditors of the Company in satisfaction of the liabilities of the Company, ~~second, to creditors of the Company who are also Interest Holders in satisfaction of the liabilities of the Company but not including those liabilities to the Interest Holders in their capacity as Interest Holders,~~ and then to the ~~Interest Holders in proportion to their Percentage Interest~~Member.

## **Section VIII Liability and Indemnification**

(a) Except as otherwise required by non-waivable provisions of applicable law or as expressly set forth in this Agreement, ~~no Interest Holder~~the Member shall not have any personal liability whatsoever in ~~such Interest Holder's~~the Member's capacity as ~~an Interest Holder~~a member in excess of its capital contribution, whether to the Company, ~~to any of the other Interest Holders,~~ to the creditors of the Company or to any other third party, for the debts, liabilities, commitments or any other obligations of the Company or for any losses of the Company, other than arising out of a breach of this Agreement by ~~such Interest Holder,~~the Member, any actions by such ~~Interest Holder~~the Member prohibited by this Agreement or as provided in any other written agreement between the Company and ~~such Interest Holder~~the Member.

(b) None of the ~~Members~~Member, the Directors, Disciplinary Panel Members or Officers shall be personally liable for the return of any portion of the capital contributions (or any return thereon) of the ~~Interest Holders~~Member and the return, if any, of such capital contributions (or any return thereon) shall be made solely from assets of the Company. None of the ~~Members~~Member or the Directors shall be required to pay to the Company ~~or any Interest Holder~~ any deficit in ~~any Interest Holder's~~the Member's capital account upon dissolution of the Company or otherwise. None of the ~~Members~~Member, the Directors or ~~the~~the Officers shall be liable, responsible or accountable, ~~in for~~ damages or otherwise, to ~~any Interest Holder~~the Member or to the Company for any act performed by such Member, ~~the~~the Directors or ~~Officer~~Officers within the scope of the authority conferred on ~~the Members and~~such Member,

the Directors and the Officers by this Agreement, except for gross negligence, fraud, bad faith or a material breach of this Agreement.

(c) The Company shall, to the fullest extent permitted by the Act, indemnify and hold harmless the ~~Interest Holders, Members,~~Member, Disciplinary Panel Members, Officers, Directors ~~and,~~ their respective partners, stockholders, members, ~~Officers~~officers, trustees, advisory board members, directors, employees, attorneys and agents and other affiliates, and, as determined by the Board in its sole discretion, certain non-Officer employees of the Company (collectively, the “**Indemnified Parties**”) from and against any loss, expense, damage or injury suffered or sustained by them by reason of any acts, omissions or alleged acts or omissions arising out of their activities on behalf of the Company or in furtherance of the interests of the Company or by reason of the fact that such Person is or was ~~an Interest Holder,~~a Member, Disciplinary Panel Member, Director, Officer, employee or agent of the Company, or is or was serving at the request of the Company as a director, trustee, member, disciplinary panel member, manager, officer, employee or agent of another limited liability company, corporation, partnership, joint venture, trust or other enterprise, including, but not limited to, any judgment, award, settlement, reasonable attorneys’ fees and other costs or expenses incurred in connection with the investigation and defense of any actual or threatened action, proceeding or claim, unless the acts, omissions or alleged acts or omissions upon which such actual or threatened action, proceeding or claim is based arose out of such Indemnified Party’s gross negligence or were performed or omitted fraudulently or in bad faith by such Indemnified Party or constituted a material breach of this Agreement. If any claim for indemnification is based on a claim by a third party (a “**Third Party Claim**”), the Indemnified Party in question shall give prompt written notice thereof to the Company and shall permit the Company to defend and/or settle such Third Party Claim, so long as it does so diligently and in good faith; provided, however, that no compromise or settlement of any claim may be effected by the Company without the Indemnified Party’s consent (which will not be unreasonably withheld, conditioned or delayed) unless the sole relief provided is monetary damages that are paid in full by the Company. Any such indemnification shall only be from the assets or insurance of the Company and ~~no Interest Holder~~the Member shall not be required to contribute capital to the Company to satisfy any such indemnification. Any such indemnification shall be paid by the Company in advance of the final disposition of any such action, proceeding or claim upon receipt of an undertaking by or on behalf of the Indemnified Party seeking advancement to repay the amount advanced should it ultimately be determined that the Indemnified Party was not entitled to be indemnified hereunder or under the Act.

## **Section IX**

### **Books, Accounting, and Tax Matters Partner**

All funds of the Company shall be deposited in such bank or other investment accounts as the Board shall approve. All such accounts shall be in the Company’s name. The annual accounting period of the Company shall be the calendar year. ~~Holdings~~The Member intends that for as long as the Company has a single Member the Company will be treated as a disregarded entity for all applicable tax purposes. The Member shall be the tax matters partner unless ~~a Majority-in-Interest of the Members~~the Member selects a different tax matters partner, to the extent that a tax matters partner is required or permitted by applicable law. For all taxable years beginning on or after January 1, 2018, and in the event the Company is treated as a partnership



for federal income tax purposes, the Member shall be designated as the “partnership representative”, as defined in Code Section 6223 (as in effect following the effective date of its amendment by Section 1101 of H.R. 1314) and the Company and the Member shall complete any necessary actions (including executing any required certificates or other documents) to effect such designation.

## **Section X** **General Provisions**

(a) Any notice, demand, consent, election, offer, approval, request, or other communication (collectively, a “**notice**”) required or permitted under this Agreement must be in writing and either delivered personally, sent by certified or registered mail, postage prepaid, return receipt requested, or sent by recognized overnight delivery service. A notice must be addressed to ~~an Interest Holder or~~the Member at the ~~Interest Holder’s or~~Member’s last known address on the records of the Company. A notice to the Company must be addressed to the Company’s principal office. Notices shall be deemed given upon receipt or refusal to accept delivery. Any party may designate, by notice to all of the others, substitute addresses or addressees for notices; and, thereafter, notices are to be directed to those substitute addresses or addressees.

(b) This Agreement constitutes the complete and exclusive statement of the agreement ~~among~~by the ~~Members~~Member and supersedes all prior written and oral statements (including the A&R LLC Agreement), including any prior representation, statement, condition or warranty.

(c) This Agreement may not be amended without the written consent of ~~a Majority in Interest of~~the ~~Members~~Member.

(d) This Agreement shall be governed by the internal law, not the law of conflicts, of the State of Delaware. The headings herein are inserted as a matter of convenience only, and do not define, limit, or describe the scope of this Agreement or the intent of the provisions hereof.

(e) This Agreement is binding upon, and inures to the benefit of, the parties hereto and their respective heirs, executors, administrators, personal and legal representatives, successors, and permitted assigns.

(f) Nouns and pronouns shall be deemed to refer to the masculine, feminine, neuter, singular and plural, as the identity of the Person may in the context require.

(g) Each provision of this Agreement shall be considered separable; and if, for any reason, any provision or provisions herein are determined to be invalid and contrary to any existing or future law, such invalidity shall not impair the operation of or affect those portions of this Agreement which are valid.

**[Remainder of Page Intentionally Left Blank.  
Signature Page Follows.]**

IN WITNESS WHEREOF, the undersigned has executed this Second Amended and Restated Limited Liability Company Agreement of Eris Exchange, LLC as of the date first set forth above.

**MEMBER**

ERIS ~~EXCHANGE~~DIGITAL HOLDINGS, LLC,  
a Delaware limited liability company

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

Name: ~~Neal B. Brady~~

Title: ~~Chief Executive Officer/Board Member~~

**EXHIBIT A ~~TO ERIS EXCHANGE, LLC~~**  
(effective as of ~~June 15~~<sup>[●]</sup>, ~~2018~~<sup>2022</sup>)

**NAME, ADDRESS, TAXPAYER IDENTIFICATION NUMBER AND  
PERCENTAGE INTEREST**

<u>Address and Taxpayer Identification Number</u>	<u>Percentage Interest</u>
Eris Digital Holdings, LLC <del>227 W. Monroe St., Suite 2070</del> <u>111 S. Wacker Drive</u> <u>Suite 4730</u> , Chicago, IL 60606	100%

EIN: \_\_\_\_\_

## **EXHIBIT B**

### **Definitions**

For purposes of this Agreement, the following terms shall have the meanings set forth below (such meanings to be equally applicable to both the singular and plural forms of the terms so defined).

“**Act**” means the Delaware Limited Liability Company Act, as amended from time to time.

“**Board**” shall have the meaning set forth in **Section V** of this Agreement.

“**Business Day**” means any day other than Saturday, Sunday, and a day on which either the Eris Exchange or commercial banks are authorized or required to close in [either of Chicago, Illinois or New York City, New York](#).

“**Cash Flow**” means the revenues and other cash receipts of the Company minus the expenditures of the Company. Cash Flow will not include reserves established by the Board from time to time except to the extent released from the reserves in question for distribution.

“**CEA**” means the [U.S.](#) Commodity Exchange Act, as amended.

“**CFTC**” means the U.S. Commodity Futures Trading Commission.

“**Code**” means the Internal Revenue Code of 1986, as amended, or any corresponding provision of any succeeding law.

“**Company**” means the limited liability company formed in accordance with the Certificate.

“**Disciplinary Panel**” shall have the meaning set forth in **Section V** of this Agreement.

“**Disciplinary Panel Member**” shall have the meaning set forth in **Section V** of this Agreement.

“**Interest**” means a membership interest in the Company entitling the holder thereof to receive a share of the Profits and Losses of, and the right to receive distributions from, the Company in accordance with the terms of this Agreement.

~~“**Interest Holder**” means any Person who holds an Interest, whether as a Member or as an unadmitted assignee of a Member.~~

~~“**Majority in Interest of the Members**” means the Member or Members with a Percentage Interest exceeding fifty percent (50%).~~

~~“**Member**” means each Person signing this Agreement and any Person who subsequently is admitted as a member in the Company.~~

“**Membership Rights**” means all of the rights of a ~~Member in~~member of the Company, including a ~~Member’s~~member’s: (i) Interests; (ii) right to inspect the Company’s books and records; and (iii) right to vote on matters coming before the ~~Members~~members, if any.

“**Officer**” means any individual from time to time authorized or appointed by the Board to act as an officer or representative of the Company on a general basis or for a specific purpose, which individual shall act for and bind the Company as authorized by the Board.

“**Percentage Interest**” means, ~~for any Interest Holder,~~ the percentage interest of ~~such Interest Holder in~~ the ~~Company~~Member as set forth on Exhibit A.

“**Person**” means and includes an individual, corporation, partnership, association, limited liability company, trust, estate or other entity.

“**Profit**” and “**Loss**” mean, for each taxable year of the Company (or other period for which Profit or Loss must be computed), the Company’s taxable income or loss determined in accordance with the Code.

~~“**Resignation**” (including its correlative meanings, “Resign” or “Resigned”) means a Member’s resignation from the Company by any means.~~

“**Sale Transaction**” shall mean any transaction ~~pursuant to which the Company sells its business by~~or series of transactions involving (i) a sale or conveyance of all or substantially all of the Company’s assets to any Person, (ii) a sale or conveyance of ~~all or substantially all~~at least 50% of the Interests or other equity interest in the Company to any Person, or (iii) a merger or consolidation of the Company with any Person pursuant to which the ~~Members~~Member (and their affiliates) immediately prior to such merger or consolidation shall own, immediately after giving effect thereto, less than a majority of the equity interest of the surviving entity (or its parent) or the purchasing entity (or its parent), as the case may be.

~~“**Secretary**” means the Secretary of State of the State of Delaware.~~

“**Transfer**” means, when used as a noun, any direct or indirect sale, hypothecation, pledge, assignment, attachment, or other transfer, and, when used as a verb, means to, directly or indirectly, sell, hypothecate, pledge, assign, or otherwise transfer.



## **EXHIBIT B**

Redline Changes to the Rulebook of Eris Exchange



# ERIS EXCHANGE LLC RULEBOOK

Effective [\*, 2022

**Amendments/Revisions to Rulebook**

Date		Amendment(s) and/or Revision(s)
November 20, 2018		Rulebook was amended to remove reference to Interest Rate Swap Futures products.
April 1, 2019		Rulebook was amended to include Chapter 12: Spot Markets
November 11, 2019		Rulebook was amended to update definitions for digital currency futures markets, and incorporate new products.
May 6, 2020		Rulebook amended to add Rule 911 and related definition. Versioning changed to effective date control rather than version numbering.
May 19, 2020		Revised Rule 906
May 21, 2020		Revised Rule 601 (Block Trades)
July 6, 2020		Revised Rule 1210 to provide for 24/7 Spot trading
October 23, 2020		Revised Rule 601 (Block Trades) to include bounded futures and added bounded futures product specifications to Chapter 11
January 29, 2021		Revised Rule 1210 to update Minimum Order Size information for Spot Contracts. Revised Rule 1206 to update block sizes for Spot Contracts.
April 5, 2021		Revised Rule 1210 to add USDC for Spot Contracts Specifications. Revised Rule 1206 to update Spot Contracts and related information about products for block trades.
April 25, 2021		Amendment to Bitcoin Bounded Futures (BB) contract size from \$0.10 to \$0.01; conforming changes to large trader, volume thresholds, and block trade size.
May 15, 2021		Volume Threshold reportable levels are being updated to 250 to comply with the CFTC Staff Letter #20-30 and to ensure consistency in Volume Threshold reporting across all products.
June 23, 2021		Amendment pursuant to 38.251 (e)
September 9, 2021		Large Trader Reportable levels updated in accordance with CFTC Reg. §15.03 (b). Correcting typos.
December 28, 2021		Arbitration clauses now reference AAA.
January 11, 2022		Matching capability for spot contracts updated to include Request for Stream
<a href="#">[The later of February 1 or the closing of the acquisition by Cboe Digital Holdings of the ErisX group of companies]</a>		<a href="#">Conforming changes to align with the amendment of the Eris Exchange Limited Liability Company Agreement.</a>



“Officer” has the meaning attributed to such term in Rule 203.

“Operating Agreement of Eris Exchange” or “Operating Agreement” means the Second First Amended and Restated Limited Liability Company Agreement of Eris Exchange LLC, dated as of ~~[\*]April 18, 2011~~, as the same may be amended from time to time.

“Option” means any Option to buy or sell any Contract traded subject to the Eris Exchange Rules.

“Order” means either a bid or an offer for a Contract. The following Order types are available on the Eris Trading System and may be amended from time to time:

- (a) Limit means a simple order executed when a specific price is met.
- (b) Stop Limit means an order that is similar to Stop Loss order with a difference that it activates a Limit order when market rate condition of the stop price is met.

“Order Qualifiers” means the following order duration qualifiers supported by the Eris Trading System. An Order eligible to be entered into the Eris Trading System that does not contain a duration qualifier will be cancelled if not filled during the trading day in which it was received or, if it was received between trading days, during the next trading day. An Order may specify one of the following duration qualifiers:

- (a) “Good Till Cancel” (GTC) means an Order that will remain in the market until executed or manually cancelled.
- (b) “Immediate or Cancel” (IOC) means an Order that will either be immediately executed or cancelled.
- (c) “Good Till Date” (GTD) means an Order that will remain in the market until the end of the trading session on a specified date.
- (d) “Fill or Kill” (FOK) means an Order in which the full quantity of the Order will either be immediately executed or canceled.

“Other Trading Hours” or “OTH” means, if applicable, the times available for trading block trades and EDRPs when the public auction market is closed.

“Participant” means a Clearing Firm, Broker Firm, Direct Member, or Participant Firm; any person who is either employed or is an agent of a Clearing Firm, Broker Firm, or Participant Firm; an ISV; or any Person initiating or executing a transaction on or subject to the Rules of the Exchange directly or through an intermediary, or any person who is authorized to access or utilize Eris Exchange pursuant to the applicable User ID.

“Participant Documentation” means the agreements (together with any applicable schedules, exhibits or appendices thereto required by the Exchange or Clearing House) in form and substance acceptable to the Exchange, that are required to be executed and delivered to the Exchange or Clearing House before a Person may access the Eris Trading System.

“Participant Firm” means a person that is authorized under the Participant Documentation to have access to Eris Exchange (e.g., a customer of a Clearing Firm enters orders directly into the Exchange’s trade matching system for execution through the use of a user identification in the Participant Firm’s name). A Participant Firm may trade for its own proprietary account. In certain

## RULE 205. Standing Committees

- (a) The Board shall have three ~~four~~ standing committees: ~~the “Nominating Committee,”~~ the “Exchange Participant Committee,” the “Regulatory Oversight Committee,” and the “Exchange Practices Committee.” The Board may from time to time constitute and appoint in accordance with the Operating Agreement, such additional standing committees of the Board as it may from time to time deem necessary or advisable.
- (b) Each member of such standing committees must be a Director, one of whom the Board shall designate as the chairperson of each standing committee.
- (c) Each standing committee shall assist in the supervision, management and control of the affairs of the Exchange within its particular area of responsibility, subject to the authority of the Board.
- (d) Subject to the authority of the Board, each standing committee shall determine the manner and form in which its proceedings shall be conducted. Each standing committee may act only by the decision of an absolute majority in number of the members of such committee, by a vote at a meeting or by unanimous written consent without a meeting. The Board has the authority to overrule the decision of a standing committee.

## RULE 206. [Reserved]~~Nominating Committee~~

~~(a) The Nominating Committee of the Board shall consist of three Directors appointed from time to time by the Board, two of which shall be Public Directors (i.e., at least 51% Public Directors). The Nominating Committee shall be chaired by a Public Director.~~

~~(b) The Nominating Committee shall have the authority to:~~

- ~~(1) Identify individuals qualified to serve on the Board, consistent with the criteria that the Board require and any composition requirement that the Commission promulgates; and~~
- ~~(2) Administer a process for the nomination of individuals to the Board.~~

~~(c) The Nominating Committee reports to the Board.~~

## RULE 207. Exchange Participant Committee

- (a) The Exchange Participant Committee of the Board shall consist of ~~three~~ Directors appointed from time to time by the Board, ~~two~~ of which at least 35% shall be Public Directors ~~(i.e. at least 35% Public Directors).~~
- (b) The Exchange Participant Committee shall:
  - (1) Determine the standards and requirements for initial and continuing Participant eligibility;
  - (2) Review appeals of staff denials of Participant applications; and

- (3) Approve rules that would result in different categories or classes of Participants receiving disparate access to the Exchange.
- (c) In reviewing appeals of staff denials of Participant applications, the Exchange Participation Committee shall not uphold any staff denial if the relevant application meets the standards and requirements that such Committee sets forth.
- (d) The Exchange Participant Committee shall not, and shall not permit the Exchange to, restrict access or impose burdens on access in a discriminatory manner, within each category or class of Participants or between similarly-situated categories or classes of Participants.
- (e) The Exchange Participant Committee reports to the Board.

### **RULE 208. Regulatory Oversight Committee**

- (a) The Regulatory Oversight Committee of the Board shall consist of ~~two~~ Public Directors appointed from time to time by the Board (i.e. 100% Public Directors).
- (b) Each member of the Regulatory Oversight Committee shall serve for a term of two calendar years from the date of their appointment or for the remainder of their term as a Public Director, and until the due appointment of his or her successor, or until his or her earlier resignation or removal, with or without cause, as a member of the Regulatory Oversight Committee or as a Public Director. A member of the Regulatory Oversight Committee may serve multiple terms.
- (c) The Regulatory Oversight Committee shall oversee the Exchange's regulatory program on behalf of the Board. The Board shall delegate sufficient authority, dedicate sufficient resources, and allow sufficient time for the Regulatory Oversight Committee to fulfill its mandate. It shall make such recommendations to the Board as will, in its judgment, best promote the interests of the Exchange. The Regulatory Oversight Committee shall also have such other powers and perform such other duties as set forth in the Rules and as the Board may delegate to it from time to time.
- (d) Without limiting the generality of the foregoing, the Regulatory Oversight Committee shall have authority to:
  - (1) Monitor the regulatory program of the Exchange for sufficiency, effectiveness, and independence;
  - (2) Oversee all facets of the regulatory program, including:
    - (i) Trade practice and market surveillance; audits, examinations, and other regulatory responsibilities with respect to Participants (including compliance with, if applicable, financial integrity, financial reporting, sales practice, recordkeeping, and other requirements); and the conduct of investigations;
    - (ii) Reviewing the size and allocation of the regulatory budget and resources, and the number, hiring, termination, and compensation of regulatory personnel;

- (iii) Supervising the Chief Regulatory Officer of the Exchange, who will report directly to the Regulatory Oversight Committee;
- (iv) Recommending changes that would ensure fair, vigorous, and effective regulation; and
- (v) Reviewing all regulatory proposals prior to implementation and advising the Board as to whether and how such changes may impact regulation.

(e) The Regulatory Oversight Committee reports to the Board.

## **RULE 209. Chief Regulatory Officer**

- (a) It shall be the duty of the Chief Regulatory Officer to enforce the Rules.
- (b) The Chief Regulatory Officer shall have available to it at all times the resources of the Market Regulation Department and such other Exchange resources as may be necessary to conduct investigations of alleged rule violations and market conditions.
- (c) The Chief Regulatory Officer shall report to, and shall be supervised by, the Regulatory Oversight Committee.
- (d) The Chief Regulatory Officer shall have the authority to inspect the books and records of all Participants and the authority to require any Participant to appear before him or her and produce its books and records and answer questions regarding alleged violations of Eris Exchange Rules, at the time, place and in the manner it designates. The Chief Regulatory Officer may also delegate such authority to staff of the Market Regulation Department.

## **RULE 210. Exchange Practices Committee**

- (a) The Exchange Practices Committee of the Board shall consist of ~~four~~ Directors appointed from time to time by the Board, ~~two~~ of which at least 35% shall be Public Directors. ~~(i.e. at least 35%).~~
- (b) The Exchange Practices Committee shall be responsible for:
  - (1) establishing and modifying from time to time Contract specifications and trading protocols and conventions for the Exchange,
  - (2) establishing and modifying position limits or accountability levels,
  - (3) designating and modifying from time to time products eligible for listing on the Exchange and
- (c) In addition, the Exchange Practices Committee shall have such other powers and perform such other duties as set forth in the Eris Exchange Rules and as the Board may delegate to it from time to time.



## **EXHIBIT C**

Redline Changes to the Charter of the Exchange Practices Committee

**ERIS EXCHANGE, LLC**  
**EXCHANGE PRACTICES COMMITTEE CHARTER**

**I. Purpose**

The Exchange Practices Committee (“**Committee**”) is a committee of the Board of Directors (“**Board**”) of Eris Exchange, LLC (“**Eris Exchange**”). The Committee is responsible for (i) establishing and modifying from time to time contract specifications and trading protocols and conventions for the Eris Exchange, (ii) establishing and modifying position limits, (iii) designating and modifying from time to time products eligible for listing on the Eris Exchange, and (iv) performing such other duties as set forth in the Eris Exchange Rules (“**Rules**”) and as the Board may delegate to it from time to time.

**II. Membership & Organization**

- The members of the Committee shall be appointed and its Chairperson designated by the Board. Each member of the Committee and its Chairperson shall serve until his or her successor is appointed or until his or her earlier resignation or removal. ~~The chair of the Committee shall qualify as a “public” director as defined in the Amended and Restated Limited Liability Company Agreement of Eris Exchange, LLC (the “Agreement”).~~
- The Committee shall be comprised of members at least thirty-five (35%) percent of whom qualify as “public” directors as defined in the Amended and Restated Limited Liability Company Agreement of Eris Exchange, LLC Agreement.

**III. Meetings, Responsibilities, and Authority**

**General**

- The Committee shall meet as often as it may deem necessary and appropriate in its judgment, but in no event less than once each quarter.
- A majority of the Committee members shall constitute a quorum for the transaction of business. Each Committee member shall have one (1) vote in all matters requiring a vote of the Committee. The act of a majority of the Committee members at any duly constituted meeting, if a quorum is present, shall be the act of the Committee.

**Responsibilities**

- The Committee shall establish and modify from time to time contract specifications and trading protocols and conventions for the Eris Exchange.
- The Committee shall establish and modify position limits for contracts traded on the Eris Exchange.

- The Committee shall designate and modify from time to time products eligible for listing on the Eris Exchange.
- The Committee shall have such other powers and perform such other duties as set forth in the Rules and as the Board may delegate to it from time to time.
- The Committee shall make this Charter and other applicable corporate governance guidelines available to the public and relevant authorities.

### **Authority**

The Committee will have the authority, discretion, and necessary resources, with written notice to the Board, to:

- Conduct its own inquiries;
- Consult directly with regulatory staff of Eris Exchange as appropriate;
- Interview employees, officers and members of Eris Exchange;
- Review all relevant documents; and
- Ask members of management or others to attend meetings and provide information.

### **IV. Reporting Activities**

- The Chairperson, or his or her designee, will make regular reports of the Committee's activities to the Board.
- The Committee will assess the adequacy of this Charter no less frequently than annually and submit any recommended changes to the Board for approval.



## **EXHIBIT D**

Redline Changes to the Charter of the Regulatory Oversight Committee



**ERIS EXCHANGE, LLC  
REGULATORY OVERSIGHT COMMITTEE  
CHARTER**

**I. Purpose**

The Regulatory Oversight Committee (“**Committee**”) is a Committee of the Board of Directors (“**Board**”) of Eris Exchange, LLC (“**Eris Exchange**”). The Committee is responsible for (i) providing independent oversight of the regulatory program, including trade practice, market and financial surveillance, (ii) assisting the Board in minimizing potential conflicts of interests of Eris Exchange with the goal that the regulatory program enables the Board to administer effectively Eris Exchange’s self-regulatory obligations, (iii) confirming that the regulatory program is fair and impartial to Eris Exchange members, and (iv) monitoring the regulatory program for sufficiency, effectiveness, and independence.

**II. Membership & Organization**

- The members of the Committee shall be appointed and its Chairperson designated by the Board. Each member of the Committee and its Chairperson shall serve until his or her successor is appointed or until his or her earlier resignation or removal.
- The Committee shall be comprised entirely of members who qualify as “public” directors as defined in the Amended and Restated Limited Liability Company Agreement of Eris Exchange, LLC.

**III. Meetings, Responsibilities and Authority**

**General**

- The Committee shall meet as often as it may deem necessary and appropriate in its judgment, but in no event less than once each quarter.
- A majority of the Committee members shall constitute a quorum for the transaction of business. Each Committee member shall have one (1) vote in all matters requiring a vote of the Committee. The act of a majority of the Committee members at any duly constituted meeting, if a quorum is present, shall be the act of the Committee.

**Responsibilities**

- The Committee shall monitor Eris Exchange’s regulatory program for sufficiency, effectiveness, and independence.

- The Committee shall oversee all facets of the regulatory program ~~as performed by the National Futures Association (“NFA”) pursuant to the terms and conditions of that certain Regulatory Services Agreement entered into between NFA and Eris Exchange, as amended from time to time~~, including trade practice and market surveillance, audits, examinations, and other regulatory responsibilities with respect to member firms (including ensuring compliance with, if applicable, financial integrity, financial reporting, sales practice, recordkeeping and other requirements) and the conduct of investigations.
- The Committee shall review the size and allocation of regulatory budgets and resources and the number, hiring, termination and compensation of regulatory personnel.
- The Committee shall make recommendations to the Board for changes that would ensure fair, vigorous, and effective regulation.
- The Committee shall supervise Eris Exchange’s chief regulatory officer, who will report directly to the Committee.
- The Committee shall keep minutes and records of its meetings, deliberations and analyses, including records of all decisions made by the Committee and any disagreements within the Committee with respect to such decisions. The Committee will make such minutes and records available to the Commodity Futures Trading Commission staff upon request.
- The Committee shall review all regulatory proposals prior to implementation and advise the Board as to whether and how such changes may impact regulation.
- The Committee shall review such other matters and perform such additional activities, within the scope of its responsibilities, as the Board deems necessary or appropriate.
- The Committee shall make this Charter and other applicable corporate governance guidelines available to the public and relevant authorities.

#### **Authority**

- The Committee shall have the authority, discretion and necessary resources to:
  - Conduct its own inquiries;
  - Consult directly with regulatory staff of Eris Exchange ~~and NFA~~;
  - Interview employees, officers and members of Eris Exchange;
  - Review all relevant documents;

- Retain independent legal counsel, auditors and other professional services;
  - Otherwise exercise its independent analysis and judgment to fulfill its regulatory obligations; and,
  - Ask members of management or others to attend meetings and provide information.
- The Committee may delegate its day-to-day authority over self-regulatory functions and personnel to Eris Exchange's chief regulatory officer.

#### **IV. Reporting Activities**

- The Committee Chairperson, or his or her designee, shall make regular reports of the Committee's activities to the Board.
- The Committee shall prepare periodic reports for the Board and an annual report assessing effectiveness, sufficiency and independence of Eris Exchange's self-regulatory program for the Board and the Commodity Futures Trading Commission, which describes the self-regulatory program and sets forth the self-regulatory program's expenses, describes its staffing and structure, catalogues disciplinary actions taken during the year, reviews the performance of disciplinary committees and panels, and includes any proposals to remedy unresolved regulatory deficiencies.
- The Committee shall reassess the adequacy of this Charter no less frequently than annually and submit any recommended changes to the full Board for approval.