INTERNATIONAL SECURITIES EXCHANGE
RULES

(Updated as of October 18, 2001)

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CHAPTER 1

Definitions

Rule 100. Definitions

(a) The following terms, when used in these Rules, shall have the meanings specified in this Chapter 1, unless the context indicates otherwise. Any term defined in Article I of the Constitution and not otherwise defined in this Chapter shall have the meaning assigned in Article I of the Constitution.

(1) The term "**aggregate exercise price**" means the exercise price of an options contract multiplied by the number of units of the underlying security covered by the options contract.

(2) The term "**American-style option**" means an options contract that, subject to the provisions of Rule 1100 (relating to the cutoff time for exercise instructions) and to the Rules of the Clearing Corporation, can be exercised on any business day prior to its expiration date and on its expiration date.

(3) The term "**associated person**" or "**person associated with a Member**" means any partner, officer, director, or branch manager of a Member (or any person occupying a similar status or performing similar functions), any person directly or indirectly controlling, controlled by, or under common control with a Member or any employee of a Member.

(4) The term "**bid**" means a quote or limit order to buy one or more options contracts.

(5) The term "**call**" means an options contract under which the holder of the option has the right, in accordance with the terms of the option, to purchase from the Clearing Corporation the number of shares of the underlying security covered by the options contract.

(6) The term "**class of options**" means all options contracts of the same type covering the same underlying security.

(7) The term "**Clearing Corporation**" means The Options Clearing Corporation.

(8) The term "**closing purchase transaction**" means an Exchange Transaction that will reduce or eliminate a short position in an options contract.

(9) The term "**closing writing transaction**" means an Exchange Transaction that will reduce or eliminate a long position in an options contract.

(10) The term "**covered short position**" means (i) the obligation of a writer of a call option is secured by a "specific deposit" or an "escrow

deposit" meeting the conditions of Rule 710(f) or 710(h), respectively, of the Rules of the Clearing Corporation, or the writer holds in the same account as the short position, on a share-for-share basis, a long position either in the underlying security or in an options contract of the same class of options where the exercise price of the options contract in such long position is equal to or less than the exercise price of the options contract in such short position; and (ii) the writer of a put option holds in the same account as the short position, on a share-for-share basis, a long position in an options contract of the same class of options where the exercise price of the options contract in such long position is equal to or greater than the exercise price of the options contract in such short position.

(11) The term "**discretion**" means the authority of a broker or dealer to determine for a customer the type of option, the class or series of options, the number of contracts, or whether options are to be bought or sold.

(12) The term "**European-style option**" means an options contract that, subject to the provisions of Rule 1100 (relating to the cutoff time for exercise instructions) and to the Rules of the Clearing Corporation, can be exercised only on its expiration date.

(13) The term "**exercise price**" means the specified price per unit at which the underlying security may be purchased or sold upon the exercise of an options contract.

(14) The term "**Federal Reserve Board**" means the Board of Governors of the Federal Reserve System.

(15) The terms "**he**," "**him**" or "**his**" shall be deemed to refer to persons of female as well as male gender, and to include organizations, as well as individuals, when the context so requires.

(16) The term "**long position**" means a person's interest as the holder of one or more options contracts.

(17) The term "**Member**" means an individual or organization that has been approved by the Exchange as an "Electronic Access Member," "Competitive Market Maker Member" or "Primary Market Maker Member."

(18) The term "**market makers**" refers to "Competitive Market Makers" and "Primary Market Makers" collectively.

(19) The term "**Non-Customer**" means a person or entity that is a broker or dealer in securities.

(20) The term "**Non-Customer Order**" means any order that is not a Public Customer Order as defined in subparagraph (30) below.

(21) The term “**offer**” means a quote or limit order to sell one or more options contracts.

(22) The term “**opening purchase transaction**” means an Exchange Transaction that will create or increase a long position in an options contract.

(23) The term “**opening writing transaction**” means an Exchange Transaction that will create or increase a short position in an options contract.

(24) The term “**options contract**” means a put or a call issued, or subject to issuance by the Clearing Corporation pursuant to the Rules of the Clearing Corporation.

(25) The term “**OPRA**” means the Options Price Reporting Authority.

(26) The term “**order**” means a commitment to buy or sell securities as defined in Rule 715 (types of orders).

(27) The term “**outstanding**” means an options contract which has been issued by the Clearing Corporation and has neither been the subject of a closing writing transaction nor has reached its expiration date.

(28) The term “**primary market**” means the principal market in which an underlying security is traded.

(29) The term “**Public Customer**” means a person that is not a broker or dealer in securities.

(30) The term “**Public Customer Order**” means an order for the account of a Public Customer.

(31) The term “**put**” means an options contract under which the holder of the option has the right, in accordance with the terms and provisions of the option, to sell to the Clearing Corporation the number of shares of the underlying security covered by the options contract.

(32) The term “**quote**” or “**quotation**” means a bid or offer entered by a market maker that updates the market maker’s previous bid or offer, if any.

(33) The term “**Rules of the Clearing Corporation**” means the Certificate of Incorporation, the By-laws and the Rules of the Clearing Corporation, and all written interpretations thereof, as the same may be in effect from time to time.

(34) The term “**SEC**” means the United States Securities and Exchange Commission.

(35) The term “**series of options**” means all options contracts of the same class having the same exercise price and expiration date.

(36) The term “**short position**” means a person’s interest as the writer of one or more options contracts.

(37) The term “**SRO**” means a self-regulatory organization as defined in Section 3(a)(26) of the Exchange Act.

(38) The term “**type of option**” means the classification of an options contract as either a put or a call.

(39) The term “**uncovered**” means a short position in an options contract that is not covered.

(40) The term “**underlying security**” means the security that the Clearing Corporation shall be obligated to sell (in the case of a call option) or purchase (in the case of a put option) upon the valid exercise of an options contract.

CHAPTER 2

Organization and Administration

Rule 200. Establishment of Committees

The Chief Executive Officer, with the approval of the Board, shall appoint any committee members that are not Directors to committees established by the Board under Article VI, Section 1 of the Constitution, or established by the Chief Executive Officer pursuant to authority delegated to him by the Board.

Rule 201. Removal of Committee Members

The Chief Executive Officer may, with the approval of the Board, remove any committee member that is not a Director for refusal, neglect, or inability to discharge such committee member's duties.

Rule 202. Committee Procedures

Except as otherwise provided in the Constitution, the Rules or resolution of the Board, each committee shall determine its own time and manner of conducting its meetings, and the vote of a majority of the members of a committee present at a meeting at which a quorum is present shall be the act of the committee. Committees may act informally by written consent of all of the members of the committee.

Rule 203. General Duties and Powers of Committees

Each committee shall administer the provisions of the Constitution and the Rules pertaining to matters within its jurisdiction. Each committee shall have such other powers and duties as may be delegated to it by the Board. Each committee is subject to the control and supervision of the Board.

Rule 204. Divisions of the Exchange

The divisions of the Exchange shall include the Regulatory Division and such other Divisions as the Chief Executive Officer, with the approval of the Board, may establish. The Chief Executive Officer shall appoint a head of every Division and may designate departments within each Division.

Rule 205. Access Fees

The access fees payable by Members shall be fixed from time to time by the Board. Access fees shall be payable in full on a monthly basis.

[Adopted February 24, 2000; amended September 12, 2000 (SR-ISE-2000-08).]

Rule 206. Transaction Fees

Members shall pay a fee for each transaction they execute on the Exchange, as may be determined by the Board.

Rule 207. Communication Fees

The Board may, at its discretion, impose a communication fee for quotes entered on the Exchange in addition to the fee contained in Rule 206.

Rule 208. Regulatory Fees or Charges

In addition to the dues and charges specified in this Chapter, the Board may, from time to time, fix and impose other fees, assessments or charges to be paid to the Exchange by Members or by Classes of Members with respect to applications, registrations, approvals, use of Exchange facilities, or other services or privileges granted, including but not limited to the following:

(a) *Regulatory Oversight Service Fees.*

> (1) Members that are subject to Rule 15c3-3 under the Exchange Act (the "Net Capital Rule") and for which the Exchange has been assigned as the designated examining authority ("DEA") pursuant to Rule 17d-1 under the Exchange Act shall be required to pay a fee to be determined by the Board.
>
> (2) Members, whether or not they are members of another registered national securities exchange or securities association with which the Exchange has executed an agreement under Rule 17d-2 under the Exchange Act to allocate responsibility for examining Members for compliance with and enforcement of certain regulatory requirements, shall be required to pay a fee to be determined by the Board.

(b) *Registration Fees.* Members shall pay application, maintenance and transfer registration fees for their Registered Options Principals (ROPs") as described in Rule 601 and Registered Representatives ("RRs") as described in Rule 602.

[Adopted February 24, 2000; amended September 12, 2000 (SR-ISE-2000-08).]

Rule 209. Transfer Fees

Members shall pay a fee for each transfer or lease of a Membership, as may be determined by the Board.

Rule 210. Liability for Payment of Fees

(a) A Member that does not pay any dues, fees, assessments, charges, fines or other amounts due to the Exchange within thirty (30) days after they have become payable shall be reported to the President, who may, after giving reasonable

notice to the Member of such arrearages, suspend the Member until payment is made. Should payment not be made within six (6) months after payment is due, the Membership may be disposed of by the Exchange in accordance with Rule 310(b).

(b) A person associated with a Member who fails to pay any fine or other amounts due to the Exchange within thirty (30) days after such amount has become payable and after reasonable notice of such arrearages, may be suspended from association with a Member until payment is made.

Rule 211. Exchange's Costs of Defending Legal Proceedings

(a) Any Member or person associated with a Member who fails to prevail in a lawsuit or other legal proceeding instituted by such person against the Exchange or any of its Directors, officers, committee members, employees or agents, and related to the business of the Exchange, shall pay to the Exchange all reasonable expenses, including attorneys' fees, incurred by the Exchange in the defense of such proceeding, but only in the event that such expenses exceed fifty thousand dollars ($50,000).

(b) Paragraph (a) of this Rule shall not apply to disciplinary actions by the Exchange, to administrative appeals of Exchange actions or in any specific instance where the Board has granted a waiver of this provision.

CHAPTER 3

Membership

Rule 300. Public Securities Business

(a) Every owner of a Membership shall have as the principal purpose of its ownership the conduct of a public securities business. Such a purpose shall be deemed to exist if and so long as:

(1) the Member has qualified and acts in respect of its business on the Exchange in one or more of the following capacities: (i) an Electronic Access Member approved to effect or clear Exchange Transactions; or (ii) a Primary or Competitive Market Maker approved in accordance with Rule 800; and

(2) all transactions effected by the Member are in compliance with Section 11(a) of the Exchange Act and the rules and regulations adopted thereunder; or

(3) the owner is a lessor to a lessee Member that has such a purpose; or

(4) the owner is a general partner or executive officer of a Member Organization with such a purpose and the Membership is registered for that organization; or

(5) Until [insert date that is ten (10) years after initiation of trading on the Exchange], the owner is a Founder.

(b) No owner of a Membership shall utilize any scheme, device, arrangement, agreement or understanding designed to circumvent or avoid, by reciprocal means or in any other manner, the provisions of this Rule.

Rule 301. Ownership of Memberships

Memberships may be owned by individuals and organizations.

(a) Owners of Memberships that are neither registered brokers-dealers nor associated with registered broker-dealers shall have no trading privileges on the Exchange.

(b) Memberships owned by persons or entities that are not registered broker-dealers nor associated with registered broker-dealers shall be leased to registered broker-dealers approved by the Exchange.

(c) For purposes of Rules 301 through 316 only, the terms “Member” and “Member Organization” also shall apply to non-broker-dealer owners of Memberships, and shall continue to apply to owners whether or not a Membership is leased.

Rule 302. Qualification of Members

(a) *Individuals.* A Member may be a corporation, partnership, LLC or natural person who is at least twenty-one (21) years of age. Except for lessors and Founders, each Member must:

(1) be a broker-dealer registered pursuant to Section 15 of the Exchange Act; and

(2) meet the qualifications for a Member in accordance with Exchange Rules applicable thereto.

(b) A Member that does not maintain an office in the United States responsible for preparing and maintaining financial and other reports required to be filed with the Commission and the Exchange must:

(1) prepare all such reports, and maintain a general ledger chart of account and any description thereof, in English and U.S. dollars;

(2) reimburse the Exchange for any expense incurred in connection with examinations of the Member to the extent that such expenses exceed the cost of examining a Member located within the continental United States; and

(3) ensure the availability of an individual fluent in English and knowledgeable in securities and financial matters to assist representatives of the Exchange during examinations.

[Adopted February 24, 2000; amended September 24, 2001 (SR-ISE-2000-11).]

Rule 303. Denial of and Conditions to Membership

(a) The Exchange may deny (or condition) Membership or may prevent a person from becoming associated (or condition an association) with a Member for the same reasons that the SEC may deny or revoke a broker-dealer registration and for those reasons required or allowed under the Exchange Act.

(b) The Exchange also may deny (or condition) Membership or may prevent a person from becoming associated with (or condition an association) with a Member when the applicant, directly or indirectly:

(1) has a negative net worth, has financial difficulties involving an amount that is more than five percent (5%) of the applicant's net worth, or has a pattern of failure to pay just debts (whether or not such debts have been the subject of a bankruptcy action);

(2) is unable satisfactorily to demonstrate a capacity to adhere to all applicable Exchange, SEC, the Clearing Corporation and Federal Reserve Board

policies, rules and regulations, including those concerning record-keeping, reporting, finance and trading procedures; or

(3) is unable satisfactorily to demonstrate reasonably adequate systems capability and capacity.

(c) When an applicant is a subject of an investigation conducted by any SRO or government agency involving his or its fitness for Membership, the Exchange need not act on the application until the matter has been resolved.

(d) The Exchange may determine not to permit a Member or person associated with a Member to continue as a Member or associated therewith, if the Member or associated person:

(1) fails to meet any of the qualification requirements for membership or association after the membership or association has been approved;

(2) fails to meet any condition placed by the Exchange on such membership or association;

(3) violates any agreement with the Exchange; or

(4) becomes subject to a statutory disqualification under the Exchange Act.

(e) If a Member or person associated with a Member that becomes subject to a statutory disqualification under the Exchange Act wants to continue as a Member of the Exchange or in association with a Member, the Member or associated person must, within thirty (30) days of becoming subject to a statutory disqualification, submit an application to the Exchange seeking to continue as a Member or in association with a Member notwithstanding the statutory disqualification. Failure to timely file such an application is a factor that may be taken into consideration by the Exchange in making determinations pursuant to paragraph (d) of this Rule.

(f) Subject to Chapter 15 (Summary Suspension), any applicant who has been denied Membership or association with a Member or granted only conditional Membership or association pursuant to paragraph (a) or (b) of this Rule, and any Member or person associated with a Member who is not permitted pursuant to paragraph (d) of this Rule to continue as a Member or associated with a Member or which continuance as a Member or association is conditioned, may appeal the Exchange's decision under Chapter 17 (Hearings and Review).

(g) An applicant will be denied Membership if, together with any person who directly or indirectly controls, is controlled by, or is under common control with, approval would result in the applicant owning and/or leasing more than one (1) Primary Market Maker Membership or more than ten (10) Competitive Market Maker Memberships, unless this requirement is waived by the Board for good cause shown.

Supplementary Material to Rule 303

.01 When making its determination whether good cause has been shown to waive the limitations contained in Rule 303(g), the Board will consider whether an operational, business or regulatory need to exceed the limits has been demonstrated. In those cases where such a need is demonstrated, the Board also will consider any operational, business or regulatory concerns that might be raised if such a waiver were granted. The Board only will waive such limitations when, in its judgment, such action is in the best interest of the Exchange.

Rule 304. Persons Associated with Member Organizations

(a) Persons associated with Member Organizations shall be bound by the Constitution and Rules of the Exchange and the rules of the Clearing Corporation. The Exchange may bar a person from becoming or continuing to be associated with a Member Organization if such person does not agree in writing, on a form prescribed by the Exchange, to furnish the Exchange with information with respect to such person's relationship and dealings with the Member Organization, and information reasonably related to such person's other securities business, as may be required by the Exchange, and to permit the examination of its books and records by the Exchange to verify the accuracy of any information so supplied.

(b) Each Member Organization shall file with the Exchange and keep current a list and descriptive identification of those persons associated with the Member Organization who are its executive officers, directors, principal shareholders, and general partners. Such persons shall file with the Exchange a Uniform application for Securities Industry Registration or Transfer (Form U-4).

(c) A claim of any person associated with a Member Organization described in the first sentence of paragraph (b) of this Rule against such organization shall be subordinate in right of payment of customers and other Members.

Rule 305. Documents Required of Applicants and Members

(a) Although the Exchange may request additional information, at a minimum, the partnership agreement and all amendments thereto, in the case of a partnership, the articles of incorporation, by-laws and all amendments thereto, in the case of a corporation, and in the case of a limited liability company, the articles of organization and operating agreement and all amendments thereto, and any lease agreement to which a Membership is subject pursuant to Rule 312, shall be filed with, and shall be subject to review by, the Exchange; however, no action or failure to act by the Exchange shall be construed to mean that the Exchange has in any way passed on the investment merits of or given approval to any such document.

(b) Every Member shall file with the Exchange and keep current an address where notices may be served.

(c) In a manner and form prescribed by the Exchange, every Member shall pledge to abide by the Constitution and Rules of the Exchange, as amended from time to time, and by all circulars, notices, directives or decisions adopted pursuant to or made in accordance with the Constitution and Rules.

(d) Members and Member Organizations shall keep and maintain a current copy of the Constitution and Rules in a readily accessible place. Member Organizations that are approved to do business with the public pursuant to Rule 600 shall make the Constitution and Rules available for examination by customers.

Rule 306. [Reserved]

Rule 307. Application Procedures and Approval or Disapproval

(a) Every individual or organization applying to become an owner or lessee of a Membership (the "applicant") shall file an application with the Exchange. Applications must be accompanied by a non-refundable application fee.

(b) Within a reasonable time following receipt of an application for Membership, the name of the applicant shall be posted by the Exchange.

(c) Before an application is approved by the Exchange:

(1) Every individual applicant and, in the case of applicant organizations, all persons associated with the organization, shall be subject to investigation by the Exchange. The applicant shall file any documents that may be required by the Exchange.

(2) An applicant seeking trading privileges shall have completed the requirements of Rule 600 (registration of Electronic Access Members) or Rule 800 (registration of market makers), including taking any required examinations.

(3) Unless an exception is granted by the Exchange for good cause, the name of the applicant shall have been posted by the Exchange for at least five (5) business days.

(d) An applicant must be approved by the Exchange to perform in at least one of the recognized capacities of a Member as stated in Rule 300(a).

(e) Upon completion of the application process, the Exchange shall consider whether to approve the application, unless there is just cause for delay. Individual applicants and persons associated with applicant organizations may be required to appear in person before the Exchange. The Exchange may also require any Member or person associated with a Member Organization who may possess information relevant to the applicant's suitability for Membership to provide information or testimony.

(f) The Exchange will determine whether to approve an application. Written notice of the action of the Exchange, specifying in the case of disapproval of an application the grounds therefor, shall be provided to the applicant.

(g) If the application process is not completed within six (6) months of the filing of the application form and payment of the appropriate fee, the application shall be deemed to be automatically withdrawn.

Rule 308. Effectiveness of Membership Applications

(a) Applicants must become effective Members within ninety (90) days of the date of approval by the Exchange as follows:

(1) An individual or organizational applicant for Membership upon purchase of and payment for an Exchange Membership and release by the Exchange.

(2) A lessee applicant upon the transfer of a Membership to his or its use pursuant to Rule 312 and release by the Exchange.

(b) With respect to each Membership that becomes effective in accordance with this Rule, the Exchange shall promptly notify all Members thereof.

Rule 309. Purchase of Memberships

(a) *Founders.* The procedures of paragraph (b) below and Rule 310 shall not govern sales of Memberships involving Founders made pursuant to agreements entered into prior to the date on which the Exchange commences operation. Until the date the Exchange commences operations, the Founders may sell Membership according to such terms and conditions that shall be agreed upon with purchasers. When a Founder sells a Membership prior to the date on which the Exchange commences operation, the purchaser shall submit an application for Membership in accordance with Rule 307 within two (2) weeks following the later of such sale or the date on which the Exchange is registered with the SEC.

(b) *Outstanding Memberships.* Memberships with respect to which notices of sale have been filed under Rule 310 may be purchased by approved applicants in accordance with the following procedures:

(1) All bids from approved applicants must be submitted in writing to the Exchange.

(2) The Exchange will maintain all bids by Class of Membership according to the highest price and the earliest submission date.

(3) The highest bid with the earliest filing date will be posted by Class by the Exchange.

(4) All bids remain in effect until written revocation thereof is received by the Exchange; however, bids will automatically expire unless an approved applicant reapplies for and is reapproved every ninety (90) days from the applicant's receipt of notification of the immediate prior approval pursuant to Rule 307(f).

(5) A bid filed in accordance with the procedures of this paragraph (b) may not be changed or withdrawn once matched with an offer filed in accordance with Rule 310.

(6) Not later than the second business day following the matching of the bid and offer, the purchaser shall deliver to the Exchange a certified or cashier's check made payable to the Exchange covering the purchase price of the Membership.

Rule 310. Sale and Transfer of Memberships

(a) *Sale by Owner*. The owner of a transferable Membership who desires to sell a Membership shall submit a written offer of sale to the Exchange.

(1) The Exchange will maintain all offers of sale by Class of Membership according to the lowest price and the earliest submission date.

(2) The lowest offer with the earliest filing date will be posted by the Exchange.

(3) All offers remain in effect until written revocation thereof is received by the Exchange.

(4) An offer filed in accordance with this paragraph may not be changed or withdrawn once matched with a bid filed in accordance with Rule 309(b).

(5) A Member who has filed an offer of sale shall, so long as it remains in good standing and until the purchase price has been paid, continue to have all of the rights and privileges, and shall remain subject to all of the duties and obligations, of Membership.

(b) *Sale by Exchange.* Whenever one or more of the following conditions exist with respect to a Membership, the Exchange may offer the Membership for sale in accordance with paragraph (a) of this Rule:

(1) An individual Member has died or has been declared legally incompetent, and the legal representative of such Member has failed to consummate a transfer of the Membership(s) within six (6) months of the Member's death or incompetence or within such extended time as may have been granted by the Exchange;

(2) A Member's good standing has been terminated or has been suspended and has failed to be reinstated at the expiration of the period of suspension including any extension of such period that may have been granted by the Exchange; and

(3) A Member Organization has been dissolved, formally or informally, and no transfer of its Membership(s) has been accomplished within six (6) months of the dissolution or within such extended time as may have been granted by the Exchange.

(4) A Member exceeds the concentration limitations contained in Rule 317.

(5) A Founder that owns a number of Memberships that exceeds the concentration limits contained in Article II, Section 10 of the Constitution fails to lease or sell at least forty percent (40%) of the Memberships that exceed those limitations by [insert date six (6) years after initiation of trading on the Exchange], provided, however, that if there is more than one (1) Membership subject to sale by the Exchange under this subparagraph (5), the Exchange shall hold one or more auctions for the sale of such Memberships pursuant to the following procedures:

(i) An auction shall be held at least once every three (3) months.

(ii) One or more Memberships may be offered for sale at each auction.

(iii) The minimum price at which a Membership may be sold shall be not less than twenty percent (20%) below the average of the last three (3) bona fide sale prices of Memberships within the last twelve (12) months or, if there were fewer than three (3) bona fide sales during this period, a reasonable price to be determined by the Board.

(iv) Any person or entity approved for Membership by the Exchange shall be eligible to place a bid for a Membership during the thirty (30) days preceding the date of an auction.

(v) During the thirty (30) days preceding an auction, the Exchange shall make known the price of the highest bid.

(vi) The proceeds from a sale of a Membership shall be subject to Rule 311, and shall be reduced by any unusual expenses incurred by the Exchange in connection with the sale.

(c) *Transfer by Owner.* The owner of a Membership may transfer such Membership without adhering to the provisions contained in paragraph (a) of this Rule so long as one of the following qualifying circumstances is applicable to and description

of the desired transfer and the transferee is approved in accordance with the Rules of the Exchange:

(1) The owner of a Membership (whether or not such Membership is registered for a Member Organization) requests the transfer of such Membership to his spouse, brother, sister, parent, child, grandparent or grandchild;

(2) The owner of a Membership requests the transfer of such Membership to an organization which has succeeded, through statutory merger, exchange of stock or acquisition of assets to the business of the transferor;

(3) The owner of a Membership requests the transfer of such Membership to an organization in which the transferor will maintain a substantial interest, that is, an interest at least equal in value to his cost or the current market price of the Membership, whichever is lower; or

(4) The owner of a Membership requests the transfer of such Membership to an individual or organization which is a partner or shareholder of the transferor as part or all of a liquidation distribution of the transferor.

(d) Transfers pursuant to paragraph (c) of this Rule shall not become effective until there has been deposited with the Exchange an amount equal to the last sale of a Membership of the same Class as the Membership being transferred or an acceptable letter of guarantee from a Clearing Member for such amount, which amount shall be applied as though it were proceeds of the sale of a Membership for the purposes of Rule 311.

Rule 311. Proceeds from Sale of Memberships

(a) Upon any sale of a Membership pursuant to Rule 310, the Exchange shall hold the proceeds of the sale for a period of twenty (20) days from the date of posting notice of the sale, during which period claims against the proceeds may be filed by Members for payment in accordance with this Rule.

(b) As soon as practicable following such twenty (20) day period, the proceeds shall be applied by the Exchange to the following purposes and in the following order of priority:

(1) The payment of such sums as the Exchange shall determine are or may become due to the Exchange from the Member or from the Member Organization on whose behalf the Membership was registered.

(2) The payment of such sums as the Exchange shall determine are or may become due to the Clearing Corporation from the Member whose Membership is transferred or from the Member Organization on whose behalf the Membership was registered.

(3) The payment of such sums as the Exchange shall determine are due by such Member or by the Member Organization on whose behalf the Membership was registered to other Members in payment of claims made by such other Members arising directly as a result of:

(i) Exchange Transactions,

(ii) transactions of such Member in securities other than on the Exchange which are effected or carried in an account maintained by a Clearing Member, or

(iii) loans or guarantees of loans to such Member or Member Organization for the propose of purchasing an Exchange Membership or for any purpose other than the purchase of securities which loans were made or guaranteed by such other Members.

(c) No claim asserted under paragraph (b)(3) of this Rule shall be considered by the Exchange nor shall any Member asserting such a claim have any rights thereunder, unless a written statement of such claim shall have been filed with the Exchange prior to the expiration of the twenty (20) day period referred to in the first paragraph of this Rule. If the proceeds of the sale of a Membership are insufficient to pay in full all claims allowed under paragraph (b)(3), payment shall be made pro rata upon all such allowed claims.

(d) If a claim is contingent or the amount that ultimately will be due thereon cannot, for any reason, be immediately ascertained or determined, the Exchange in its sole discretion may, out of the proceeds of the sale of the Membership, reserve and retain for later distribution in accordance with the Rules such amount as it may deem appropriate, pending the determination of the amount due on such claim.

(e) After provision of the sums payable under paragraph (b) hereof and provision for the reserve if any under paragraph (d) hereof, there may, in the discretion of the Exchange, be deducted from the remaining proceeds and paid to the Exchange the amount of any unusual expenses incurred by the Exchange involving the disposition of such proceeds.

(f) The surplus, if any, of proceeds of the sale of a Membership, after provision for the above payments and the setting aside of the reserve under paragraph (d) hereof, shall be paid to the Member whose Membership is sold or to his or its legal representatives.

(g) No recognition or effect shall be given by the Exchange to any agreement or to any instrument entered into or executed by a Member or his legal representatives which purports to transfer or assign the interest of such Member in his or its Membership, or in the proceeds or any part thereof, or which purports in any manner to provide for the disposition of such proceeds to a creditor of such Member, nor shall payment of such proceeds be made by the Exchange on the order of such Member.

Rule 312. Leasing Memberships

(a) The owner of a Membership in good standing may lease such Membership to an individual or organization, provided the lessee is approved for Membership in accordance with the Rules of the Exchange.

(b) Lease agreements, which must be approved by the Exchange in accordance with Rule 307, shall include provisions covering:

(1) the duration of the lease arrangement;

(2) the consideration to be paid by the lessee;

(3) the assignability of the respective interests of the lessee and lessor in such lease agreement; and

(4) as between the parties, which party shall exercise the voting rights of the Membership and which party shall provide the funds necessary to satisfy all applicable Exchange dues, fees and other charges.

(c) Any division of rights and responsibilities between lessor and lessee shall not affect the obligation of the lessor to pay all amounts due the Exchange.

(d) The lease of a Membership shall not become effective until:

(1) the lessee has deposited with the Exchange an amount equal to the last sale of a Membership of the same Class as the Membership being leased or an acceptable letter of guarantee from a Clearing Member for such amount, which amount shall be applied to claims of Member creditors of the lessee Member at the end of the term of the lease as though it were proceeds of the sale of a Membership for the purposes of Rule 311; and

(2) in the case where the lessor Member is a broker-dealer that conducted business on the Exchange, there has been deposited by such lessor Member with the Exchange an amount equal to the last sale of a Membership of the same Class as the Membership being leased or an acceptable letter of guarantee from a Clearing Member for such amount, which amount shall be applied to claims of Member creditors of the lessor Member as though it were proceeds of the sale of a Membership for the purposes of Rule 311.

(e) In the event the lessor of a Membership effects a sale thereof pursuant to the provisions of Rule 310(a), claims may be made against the proceeds from the sale of such Membership in accordance with Rule 311 by Members having claims against either the lessee or the lessor, with priority given to claims made against the lessee.

Rule 313. Death, Retirement, Withdrawal and Resignation

Upon the death, retirement, withdrawal or resignation from a Member Organization of an individual Member whose Membership is registered for the organization which leaves the organization without a Membership, the Exchange may permit the organization to continue to act as a Member in good standing for such period as the Exchange deems reasonably necessary to enable the organization to acquire a Membership.

Rule 314. Dissolution and Liquidation of Member Organizations

Every Member Organization shall promptly notify the Exchange in writing upon the adoption of a plan of liquidation or dissolution. Upon receipt of such notice, the Member may be suspended in accordance with Chapter 15 (Summary Suspension) of the Rules.

Rule 315. Obligations of Terminating Members

(a) Every Member who sells or transfers his Membership pursuant to the provisions of this Chapter must be current in all filings and payments of dues, fees and charges relating to that Membership, including filing fees and charges required by the SEC and Securities Investor Protection Corporation.

(b) If a Member fails to make all such filings, or to pay all such dues, fees and charges, the Exchange may, notwithstanding the other applicable provisions of this Chapter, withhold distributions of the proceeds of sale of the Membership, or delay the effectiveness of the Membership of the transferee, until such failures have been remedied.

Rule 316. Transfer of Individual Membership in Trust

An individual Member in good standing may transfer his Membership in trust, subject to each of the following conditions:

(a) Subject to paragraph (b) of this Rule, the Member transferring his Membership in trust (the "trust Member"), during his lifetime, shall be the sole trustee and sole beneficiary of the trust. The trust Member shall remain personally responsible for all obligations and liabilities associated with the Membership and its use, and the Membership shall remain subject to all of the Rules of the Exchange.

(b) The terms of the trust shall provide the following:

(1) In the event the trust Member dies, is declared legally incompetent, or is in any condition that substantially impairs his ability to transact ordinary business (is "disabled"), as certified in a written opinion furnished to the Exchange by the trust Member's physician who has personally examined or treated him, a legally qualified individual or institution may be appointed as successor trustee for the sole purpose of transferring the Membership in

accordance with the Rules, including the requirements of Rule 311, subject to the right of the Exchange to offer the Membership for sale in accordance with Rule 310(b)(1).

(2) Notwithstanding subparagraph (1) above, the terms of the trust may authorize the successor trustee to continue to hold the Membership in trust for the benefit of the trust Member during any period when the trust Member is declared legally incompetent or is disabled so long as the Membership is leased for that period in accordance with the requirements of Rule 312.

(3) The trust shall provide that the Exchange shall bear no liability for any actions taken or omitted by the trust Member or any successor trustee in respect of the administration of the trust or the management of trust assets.

(c) A Membership held in trust may be transferred during the lifetime of the trust Member or at his death in accordance with the provisions of Rule 310(c)(1), and may also be transferred during the lifetime of the trust Member in accordance with the provisions of Rule 310(c)(3).

(d) A Membership held in trust may be transferred to the trust Member to be held directly and not in trust.

(e) A copy of the trust agreement reflecting the foregoing requirements shall be furnished to the Exchange, accompanied by the certification of the attorney who prepared the agreement that it conforms to the requirements of this Rule.

(f) The Exchange may disapprove a transfer in trust if it finds the trust agreement fails to satisfy the requirements of the Rule by written notice of such disapproval sent to the Member proposing the transfer.

Rule 317. Limitations on Number of Memberships

(a) *General Rule*. The Exchange generally will approve a Member to effect Exchange Transactions pursuant to only one (1) Primary Market Maker Membership. However, upon good cause shown, the Exchange may approve a Member to effect Exchange Transactions with respect to two (2) Primary Market Maker Memberships.

(b) *Initial Approval of Memberships.*

(1) Primary Market Maker Memberships. The Exchange will not initially approve a Member to effect Exchange Transactions with respect to more than one (1) Primary Market Maker Membership until the Exchange has approved at least five (5) Members to effect Exchange Transactions with respect to Primary Market Maker Memberships.

(2) Competitive Market Maker Memberships. The Exchange will not initially approve a Member to effect Exchange Transactions with respect to

multiple Competitive Market Maker Memberships until the Exchange has approved a minimum number of Members to effect Exchange Transactions with respect to Competitive Market Maker Memberships as follows:

Number of Approved Memberships	Maximum Number of Memberships Per Member
10 or fewer	2
11 to 15	3
16 to 25	5
26 to 40	8
over 40	10

Supplementary Material to Rule 317

.01 When making its determination whether good cause has been shown to waive the limitations contained in Rule 317(a), the Board will consider whether an operational, business or regulatory need to exceed the limits has been demonstrated. In those cases where such a need is demonstrated, the Board also will consider any operational, business or regulatory concerns that might be raised if such a waiver were granted. The Board only will waive such limitations when, in its judgment, such action is in the best interest of the Exchange.

CHAPTER 4

Business Conduct

Rule 400. Just and Equitable Principles of Trade

No Member shall engage in acts or practices inconsistent with just and equitable principles of trade. Persons associated with Members shall have the same duties and obligations as Members under the Rules of this Chapter.

Supplementary Material to Rule 400

.01 It will be a violation of Rule 400 for a member to have a relationship with a third party regarding the disclosure of agency orders. Specifically, a member may not disclose to a third party information regarding agency orders represented by the member prior to entering such orders into the System to allow such third party to attempt to execute against the member's agency orders. A member's disclosing information regarding agency orders prior to the execution of such orders on the Exchange would provide an inappropriate informational advantage to the third party in violation of Rule 400. For purposes of this paragraph .01, a third party includes any other person or entity, including affiliates of the Member. (See also Supplementary Material to Rule 717, paragraph .02)

.02. It may be considered conduct inconsistent with just and equitable principles of trade for any person associated with a Member who has knowledge of all material terms and conditions of:

(i) an order and a solicited order,
(ii) an order being facilitated, or
(iii) orders being crossed;

the execution of which are imminent, to enter, based on such knowledge, an order to buy or sell an option for the same underlying security as any option that is the subject of the order, or an order to buy or sell the security underlying such class, or an order to buy or sell any related instrument until (i) the terms of the order and any changes in the terms of the order of which the person associated with the Member has knowledge are disclosed to the trading crowd, or (ii) the trade can no longer reasonably be considered imminent in view of the passage of time since the order was received. The terms of an order are "disclosed" to the trading crowd on the Exchange when the order is entered into the System or into the Facilitation Mechanism.

[Adopted February 24, 2000; amended April 20, 2001 (SR-ISE-2001-02).]

Rule 401. Adherence to Law

No Member shall engage in conduct in violation of the Exchange Act, the Constitution or the Rules of the Exchange, or the rules of the Clearing Corporation

insofar as they relate to the reporting or clearance of any Exchange Transaction, or any written interpretation thereof. Every Member shall so supervise persons associated with the Member as to assure compliance therewith.

Rule 402. Sharing of Offices and Wire Connections

No Member, without the prior written consent of the Exchange, shall establish or maintain wire connections or office sharing arrangements with other Members or with non-member broker-dealers.

Rule 403. Nominal Employment

No Member may employ any person in a nominal position on account of business obtained by such person.

Rule 404. False Statements

No Member, person associated with a Member or applicant for Membership shall make any false statements or misrepresentations in any application, report or other communication to the Exchange, and no Member or person associated with a Member shall make any false statement or misrepresentation to the Clearing Corporation with respect to the reporting or clearance of any Exchange Transaction or adjust any position at the Clearing Corporation in any class of options traded on the Exchange except for the purpose of correcting a bona fide error in recording or transferring the position to another account.

Rule 405. Manipulation

(a) No Member shall effect or induce the purchase, sale or exercise of any security for the purpose of creating or inducing a false, misleading, or artificial appearance of activity in such security or in the underlying security, or for the purpose of unduly or improperly influencing the market price of such security or of the underlying security or for the purpose of making a price which does not reflect the true state of the market in such security or in the underlying security.

(b) No Member or any other person or organization subject to the jurisdiction of the Exchange shall directly or indirectly participate in or have any interest in the profit of a manipulative operation or knowingly manage or finance a manipulative operation. For the purposes of this paragraph but without limitation:

(1) any pool, syndicate or joint account, whether in corporate form or otherwise, organized or used intentionally for the purposes of unfairly influencing the market price of any security by means of options or otherwise and for the purpose of making a profit thereby, shall be deemed to be a manipulative operation;

(2) the soliciting of subscriptions to any such pool, syndicate or joint account shall be deemed to be managing a manipulative operation; and

(3) the carrying on margin of either a "long" or a "short" position in securities for, or the advancing of credit through loans of money or of securities to, any such pool syndicate or joint account shall be deemed to be financing a manipulative operation.

Rule 406. Gratuities

No Member shall give any compensation or gratuity in any one year in excess of $50.00 to any employee of the Exchange or in excess of $100.00 to any employee of any other Member or of any non-member broker, dealer, bank or institution, without the prior consent of the employer and of the Exchange.

Rule 407. Rumors

No Member shall circulate, in any manner, rumors of a character which might affect market conditions in any security; provided, however, that this Rule shall not prohibit discussion of unsubstantiated information, so long as its source and unverified nature are disclosed.

Rule 408. Prevention of the Misuse of Material Nonpublic Information

(a) Every Member, other than a lessor that is neither registered, nor required to be registered, as a broker-dealer under Section 15 of the Exchange Act, shall establish, maintain and enforce written policies and procedures reasonably designed, taking into consideration the nature of the Member's business, to prevent the misuse of material nonpublic information by such Member or persons associated with such Member in violation of the Exchange Act and Exchange Rules.

(1) Misuse of material nonpublic information includes, but is not limited to:

(i) trading in any securities issued by a corporation, or in any related securities or related options or other derivative securities, while in possession of material nonpublic information concerning that corporation;

(ii) trading in an underlying security or related options or other derivative securities, while in possession of material nonpublic information concerning imminent transactions in the underlying security or related securities; and

(iii) disclosing to another person any material nonpublic information involving a corporation whose shares are publicly traded or an imminent transaction in an underlying security or related securities for the purpose of facilitating the possible misuse of such material nonpublic information.

(2) Each Member shall establish, maintain and enforce the following policies and procedures as appropriate for the nature of each Member's business:

(i) all associated persons must be advised in writing of the prohibition against the misuse of material nonpublic information;

(ii) signed attestations from the Member and all associated persons affirming their awareness of, and agreement to abide by, the aforementioned prohibitions must be maintained for at least three (3) years, the first two (2) years in an easily accessible place;

(iii) records of all brokerage accounts maintained by the Member and all associated persons must be acquired and maintained for at least three (3) years, the first two (2) years in an easily accessible place, and such brokerage accounts must be reviewed periodically by the Member for the purpose of detecting the possible misuse of material nonpublic information; and

(iv) any business dealings the Member may have with any corporation whose securities are publicly traded, or any other circumstances that may result in the Member receiving, in the ordinary course of business, material nonpublic information concerning any such corporation, must be identified and documented.

(b) Members that are required, pursuant to Exchange Rule 1403 (Audits), to file Form X-17A-5 under the Exchange Act with the Exchange on an annual basis only, shall, contemporaneously with those submissions, file attestations signed by such Members stating that the procedures mandated by this Rule have been established, enforced and maintained.

(c) Any Member or associated person who becomes aware of a possible misuse of material nonpublic information must promptly notify the Exchange.

Rule 409. Disciplinary Action by Other Organizations

Every Member shall promptly notify the Exchange in writing of any disciplinary action, including the basis therefor, taken by any national securities exchange or registered securities association, clearing corporation, commodity futures market or government regulatory body against the Member or its associated persons, and shall similarly notify the Exchange of any disciplinary action taken by the Member itself against any of its associated persons involving suspension, termination, the withholding of commissions or imposition of fines in excess of $2,500, or any other significant limitation on activities.

Rule 410. Other Restrictions on Members

Whenever the Exchange shall find that a Member has failed to perform on his or its contracts or is insolvent or is in such financial or operational condition or is otherwise conducting business in such a manner that it cannot be permitted to continue in business with safety to customers or creditors or the Exchange, the Exchange may summarily suspend the Member in accordance with Chapter 15 (Summary Suspension) or may impose such conditions and restrictions upon the Member as considered reasonably necessary for the protection of the Exchange and the customers of such Member.

Rule 411. Significant Business Transactions

(a) Except as provided in paragraph (c) below, a Member that clears market maker trades is required to notify the Exchange in writing fifteen (15) days prior to any of the following proposed significant business transactions ("SBT"):

(1) the combination, merger or consolidation between the Member and another person engaged in the business of effecting, executing, clearing or financing transactions in securities or futures products;

(2) the transfer from another person of market maker, broker-dealer, or customer securities or futures accounts that are significant in size or number to the business of the Member;

(3) the assumption or guarantee by the Member of liabilities of another person engaged in the business of effecting, executing, clearing or financing transactions in securities or futures products, in connection with a direct or indirect acquisition of all or substantially all of the person's assets; or

(4) termination of the Member's clearing business or any material part thereof.

(b) Notification of any of the following SBTs shall be made in writing to the Exchange, not later than five (5) business days from the date on which the SBT becomes effective:

(1) the sale by the Clearing Member of a significant part of its assets to another person;

(2) a change in the identity of any general partner or a change in the beneficial ownership of ten percent (10%) or more of any class of the outstanding stock of any corporate general partner;

(3) a change in the beneficial ownership of twenty percent (20%) or more of any class of the outstanding stock of the Member or the issuance of any capital stock of the Member; or

(4) the acquisition by the Clearing Member of assets of another person that would constitute a “business” that is “significant,” as those terms are defined in Section 11-01 of Regulation S-X under the Exchange Act.

(c) A Clearing Member is required to notify the Exchange in writing thirty (30) days prior to a proposed SBT included in paragraph (a) of this Rule, and such SBT shall be subject to the prior approval of the Exchange, if the Member’s market maker clearance activities exceed, or would exceed as a result of the proposed SBT, any of the following parameters:

(1) fifteen percent (15%) of cleared Exchange market maker contract volume for the most recent three (3) months;

(2) an average of fifteen percent (15%) of the number of Exchange market makers as of each month and for the most recent three (3) months; or

(3) twenty-five percent (25%) of Exchange market maker gross deductions (haircuts) defined by Rule 15c3-1(a)(6) or (c)(2)(x) under the Exchange Act carried by the Clearing Member in relation to the aggregate of such haircuts carried by all other Clearing Members for any month end within the most recent three (3) months.

(d) An SBT that comes within paragraph (c) of this Rule may be disapproved or conditioned within the thirty (30) day period if the Exchange determines that such SBT has the potential to threaten the financial or operational integrity of market maker transactions. In making this determination, the Exchange may consider, among other relevant matters, the following:

(1) The effect of the proposed SBT on the capital size and structure of the resulting Clearing Member Organization(s), the potential for financial failure and the consequences of any such failure on the Exchange market as a whole, and the potential for increased or decreased operational efficiencies arising from the proposed transaction.

(2) The effect of the proposed SBT upon overall concentration of market makers, including a comparison of the following measures before and after the proposed transaction:

(i) proportion of Exchange market maker contract volume cleared;

(ii) proportion of Exchange market makers cleared; and

(iii) proportion of market maker gross deductions (haircuts) as defined by Rule 15c3-1(a)(6) or (c)(2)(x) under the Exchange Act carried by the Clearing Member(s) in relation to the aggregate of such deductions carried by other Members that clear market maker transactions.

(3) The regulatory history of the affected Members, specifically as it may indicate a tendency to financial or operational weakness.

(e) Transactions that come within paragraph (c) of this Rule shall be reviewed according to the following procedures:

(1) A Member must provide promptly, in writing, all information reasonably requested by the Exchange. Any information disclosed by Members pursuant to the requirements of this Rule shall be kept confidential by the Exchange until such information is otherwise publicly disclosed and shall be used only for purposes of reviewing the proposal.

(2) If the Exchange determines, prior to the expiration of the thirty (30) day period, that a proposed SBT may be approved without conditions, the Exchange shall promptly so advise the Member.

(3) All decisions to disapprove or condition a proposed SBT or to impose extraordinary requirements shall be in writing, shall include a statement setting forth the grounds for the decision, and the Member shall be promptly notified of any such decisions by the Exchange.

(4) Notwithstanding any other provisions of the Rules, the Member may appeal a decision to disapprove or condition a proposed SBT directly to the Board by filing an application for review with the Secretary of the Exchange within fifteen (15) days of the date of service of the decision. Appeal to the Board shall be the exclusive method of reviewing such a decision.

(5) An appeal to the Board of a decision to disapprove or condition a proposed SBT shall not operate as a stay of that decision during the pendency of the appeal.

(6) The Exchange shall file notice with the SEC in accordance with the provisions of Section 19(d)(1) of the Exchange Act of all final decisions to disapprove or condition a proposed SBT.

(f) The Exchange may impose additional financial and/or operational requirements on a Member that clears market maker trades at any time when it determines that the Member's continuance in business without such requirements has the potential to threaten the financial or operational integrity of market maker transactions.

(g) The provisions of this Rule do not preclude summary Exchange action under Rule 410, under Chapter 15 (Summary Suspension) or other Exchange action pursuant to the Rules.

(h) The Exchange, upon approval by the Chief Regulatory Officer, may exempt a Member from the requirements of this Rule, either generally or in respect of specific types of transactions, based on the limited proportion of market maker trades

on the Exchange that are cleared by the Member or on the limited importance that the clearing of market maker trades bears to the total business of the Member.

Rule 412. Position Limits

(a) Except with the prior permission of the President or his designee, to be confirmed in writing, no Member shall make, for any account in which it has an interest or for the account of any customer, an opening transaction on any exchange if the Member has reason to believe that as a result of such transaction the Member or its customer would, acting alone or in concert with others, directly or indirectly:

(1) control (as defined in paragraph (f) below) an aggregate position in an options contract traded on the Exchange in excess of 13,500 or 22,500 or 31,500 or 60,000 or 75,000 options contracts (whether long or short) of the put type and the call type on the same side of the market respecting the same underlying security, combining for purposes of this position limit long positions in put options with short positions in call options, and short positions in put options with long positions in call options, or such other number of options contracts as may be fixed from time to time by the Exchange as the position limit for one or more classes or series of options; or

(2) exceed the applicable position limit fixed from time to time by another exchange for an options contract not traded on the Exchange, when the Member is not a member of the other exchange on which the transaction was effected.

(b) Should a Member have reason to believe that a position in any account in which it has an interest or for the account of any customer is in excess of the applicable limit, such Member shall promptly take the action necessary to bring the position into compliance.

(c) Reasonable notice shall be given of each new position limit fixed by the Exchange.

(d) Limits shall be determined in the following manner:

(1) A 13,500-contract limit applies to those options having an underlying security that does not meet the requirements for a higher options contract limit.

(2) To be eligible for the 22,500-contract limit, either the most recent six (6) month trading volume of the underlying security must have totalled at least twenty (20) million shares, or the most recent six (6) month trading volume of the underlying security must have totalled at least fifteen (15) million shares and the underlying security must have at least forty (40) million shares currently outstanding.

(3) To be eligible for the 31,500-contract limit, either the most recent six (6) month trading volume of the underlying security must have totalled at least forty (40) million shares or the most recent six (6) month trading volume of the underlying security must have totalled at least thirty (30) million shares and the underlying security must have at least 120 million shares currently outstanding.

(4) To be eligible for the 60,000-contract limit, either the most recent six (6) month trading volume of the underlying security must have totalled at least eighty (80) million shares or the most recent six (6) month trading volume of the underlying security must have totalled at least sixty (60) million shares and the underlying security must have at least 240 million shares currently outstanding.

(5) To be eligible for the 75,000-contract limit, either the most recent six (6) month trading volume of the underlying security must have totalled at least 100 million shares or the most recent six-month trading volume of the underlying security must have totalled at least seventy-five (75) million shares and the underlying security must have at least 300 million shares currently outstanding.

(e) Every six (6) months, the Exchange will review the status of underlying securities to determine which limit should apply. A higher limit will be effective on the date set by the Exchange, while any change to a lower limit will take effect after the last expiration then trading, unless the requirement for the same or a higher limit is met at the time of the intervening six (6) month review. If, however, subsequent to a six (6) month review, an increase in volume and/or outstanding shares would make a stock eligible for a higher position limit prior to the next review, the Exchange in its discretion may immediately increase such position limit.

(f) Control exists under this Rule 412 when it is determined that an individual or entity makes investment decisions for an account or accounts, or materially influences directly or indirectly the actions of any person who makes investment decisions.

(1) Control will be presumed in the following circumstances, and will be presumed to continue until determined otherwise pursuant to paragraph (f)(2) below:

(i) among all parties to a joint account who have authority to act on behalf of the account;

(ii) among all general partners to a partnership account;

(iii) when an individual or entity holds an ownership interest of ten percent (10%) or more in an entity (ownership interest of less than ten percent (10%) will not preclude aggregation), or shares in ten percent (10%) or more of profits and losses of an account;

(iv) when accounts have common directors or management;

(v) where a person has the authority to execute transactions in an account.

(2) Control, presumed by one or more of the above findings or circumstances, can be rebutted by proving that the factor does not exist or by showing other factors which negate the presumption of control. The rebuttal proof must be submitted by affidavit and/or such other documentary evidence as may be appropriate in the circumstances. The Exchange will also consider the following factors in determining if aggregation of accounts is required:

(i) similar patterns of trading activity among separate entities;

(ii) the sharing of kindred business purposes and interests;

(iii) whether there is common supervision of the entities which extends beyond assuring adherence to each entity's investment objectives and/ or restrictions;

(3) Initial determinations under this paragraph (f) shall be made by the Regulatory Division. The initial determination may be reviewed by the President or his designee, based upon a report by the Regulatory Division. A Member or customer directly affected by such a determination may ask the President or his designee to reconsider, but may not request any other review or appeal except in the context of a disciplinary proceeding. The decision to grant non-aggregation under this paragraph (f) shall not be retroactive.

Rule 413. Exemptions from Position Limits

(a) *Equity Hedge Exemption*. The following positions, where each options contract is "hedged" by 100 shares of stock or securities convertible into such stock, or, in the case of an adjusted options contract, the same number of shares represented by the adjusted contract, shall be exempted from established position and exercise limits up to that number of options contracts equal to the limit as computed in Rule 412(d): long call and short stock; short call and long stock; long put and long stock; and short put and short stock.

(1) The equity hedge exemption is in addition to the standard limit and other exemptions available under Exchange Rules.

(2) In no event may the equity hedge exemption for any class of options exceed twice the standard limit established by Rule 412, except that the equity hedge exemption for a market maker who also receives a market maker

exemption from the standard limit pursuant to paragraph (b) of this Rule may not exceed twice the market maker exempted position.

(b) *Market Maker Exemption*. The provisions set forth below apply only to market makers seeking an exemption to the standard position limits in all options traded on the Exchange for the purpose of assuring that there is sufficient depth and liquidity in the marketplace, and not to confer a right upon the market maker applying for an exemption.

(1) In light of the procedural safeguards, the purpose of this exemption process, and the prohibition against the granting of retroactive exemptions, decisions granting or denying exemptions are not subject to review under Chapter 17 (Hearing and Review) of the Exchange Rules regarding Hearings and Review.

(2) An exemption may be granted for the purpose of maintaining a fair and orderly market in the options on a given underlying security.

(3) Generally, an exemption will be granted only to a market maker who has requested an exemption, who is appointed to the options class in which the exemption is requested pursuant to Rule 802, whose positions are near the current position limit and who is significant in terms of daily volume. The positions must generally be within ten percent (10%) of the limits contained in Rule 412.

(4) If an exemption is granted, it will be effective at the time the decision is communicated, and retroactive exemptions will not be granted.

(5) The size and length of an exemption will be determined on a case by case basis; however, an exemption usually will be granted until the nearest expiration. The exemption may specify the extent to which the resulting position may be carried in options in one or more expiration cycles.

(6) Procedures for market makers nearing the limits due to general market conditions:

(i) A request for an exemption from the established position and exercise limits must be in writing and must state the specific reasons why an exemption should be granted.

(ii) The request should be submitted to the Exchange no later than 1:00 p.m. for same-day review.

(iii) Review of the request will be conducted informally, *i.e.*, the Exchange may receive information in such manner as is most effective, in its discretion, to ascertain whether an exemption is necessary to maintain depth and liquidity in the market.

(iv) The Exchange will communicate the exemption decision to the requesting market maker and his or its Clearing Member as soon as possible, generally on the day following review.

(7) Requests for instant exemptions may be made for extraordinary situations, such as when there is an order imbalance or a market maker is near the limits intraday. Following immediate review of the situation, the Exchange will decide whether an exemption is warranted.

(c) *Firm Facilitation Exemption*. To the extent that the following procedures and criteria are satisfied, a Member Organization may receive and maintain for its proprietary account an exemption ("facilitation exemption") from the applicable standard position limit in non-multiply-listed options traded on the Exchange for the purpose of facilitating, pursuant to the provisions of Rule 716(d), (i) orders for its own Public Customer (one that will have the resulting position carried with the firm) or (ii) orders received from or on behalf of a Public Customer for execution only against the Member firm's proprietary account.

(1) The Member Organization must receive approval from the Exchange prior to executing facilitating trades.

(2) The facilitation exemption shall be granted to the Member Organization owning or controlling the account in which the exempt options positions are held. For purposes of this paragraph (c), control shall be determined in accordance with the provision of Rule 412(f).

(3) Exchange approval may be given on the basis of verbal representations, in which event the Member Organization shall, within a period of time to be designated by the Exchange, furnish the appropriate forms and documentation substantiating the basis for the exemption. The approval for the facilitation exemption will specify the maximum number of contracts that may be exempt under this paragraph (c). In no event may the aggregate exempted position under this paragraph (c) exceed twice the applicable standard limit.

(4) The facilitation exemption is in addition to the standard limit and other exemptions available under Exchange Rules. A Member Organization so approved is hereinafter referred to as a "facilitation firm."

(5) The facilitation firm must provide all information required by the Exchange on approved forms and keep such information current. The facilitation firm shall promptly provide to the Exchange any information or documents requested concerning the exempted options positions and the positions hedging them.

(6) The facilitation firm shall comply with the following provisions regarding the execution of its Public Customer Order and its own facilitating order:

(i) neither order may be contingent on a “fill-or-kill” instructions; and

(ii) the orders must be executed pursuant to Rule 716(d).

(7) To remain qualified, a facilitation firm must, within five (5) business days after the execution of a facilitation exemption order, hedge all exempt options positions that have not previously been liquidated, and furnish the Exchange with documentation reflecting the resulting hedging positions.

(8) The facilitation firm shall:

(i) liquidate and establish its Public Customer’s and its own options and stock positions or their equivalent in an orderly fashion, and not in a manner calculated to cause unreasonable price fluctuations or unwarranted price changes; and not initiate or liquidate its Public Customer’s or its own stock position or its equivalent with an equivalent index options position with a view toward taking advantage of any differential in price between a group of securities and an overlying stock index option;

(ii) promptly notify the Exchange of any material change in the exempted options position or the hedge; and

(iii) not increase the exempted options position once it is closed unless approval is received again pursuant to a reapplication under this paragraph (c).

(9) Violation of any of these provisions, absent reasonable justification or excuse, shall result in withdrawal of the facilitation exemption and may form the basis for subsequent denial of an application for a facilitation exemption hereunder.

Rule 414. Exercise Limits

(a) Except with the prior permission of the President or his designee, to be confirmed in writing, no Member shall exercise, for any account in which it has an interest or for the account of any customer, a long position in any options contract where such Member or customer, acting alone or in concert with others, directly or indirectly, has or will have:

(1) exercised within any five (5) consecutive business days aggregate long positions in any class of options traded on the Exchange in excess of 13,500 or 22,500 or 31,500 or 60,000 or 75,000 options contracts or such other number of options contract as may be fixed from time to time by the Exchange as the exercise limit for that class of options; or

(2) exceeded the applicable exercise limit fixed from time to time by another exchange for an options class not traded on the Exchange, when the Member is not a member of the other exchange which lists the options class.

(b) Reasonable notice shall be given of each new exercise limit fixed by the Exchange by posting notice thereof by the Exchange.

(c) Limits shall be determined in the manner described in Rule 412. For a market maker that has been granted an exemption to position limits pursuant to Rule 413(a), the number of contracts which can be exercised over a five (5) business day period shall equal the market maker's exempted position.

Rule 415. Reports Related to Position Limits

(a) Each Member shall file with the Exchange the name, address and social security or tax identification number of any customer, as well as any Member, any general or special partner of the Member, any officer or director of the Member or any participant, as such, in any joint, group or syndicate account with the Member or with any partner, officer or director thereof, who, on the previous business day held aggregate long or short positions of 200 or more options contracts of any single class of options traded on the Exchange. The report shall indicate for each such class of options contracts the number of options contracts comprising each such position and, in case of short positions, whether covered or uncovered.

(b) Electronic Access Members that maintain an end of day position in excess of 10,000 non-FLEX equity options contracts on the same side of the market on behalf of its own account or for the account of a customer, shall report whether such position is hedged and provide documentation as to how such position is hedged. This report is required at the time the subject account exceeds the 10,000 contract threshold and thereafter, for customer accounts, when the position increases by 2,500 contracts and for proprietary accounts when the position increases by 5,000 contracts.

(c) In addition to the reports required by paragraph (a) and (b) of this Rule, each Member shall report promptly to the Exchange any instance in which the Member has reason to believe that a person included in paragraph (a), acting alone or in concert with others, has exceeded or is attempting to exceed the position limits established pursuant to Rule 412.

Rule 416. Liquidation Positions

(a) Whenever the Exchange shall find that a person or group of persons acting in concert holds or controls, or is obligated in respect of, an aggregate position (whether long or short) in all options contracts or one or more classes or series traded on the Exchange in excess of the applicable position limit established pursuant to Rule 412, it may order all Members carrying a position in options contracts of such classes or series for such person or persons to liquidate such positions as expeditiously as possible, consistent with the maintenance of a fair and orderly market.

(b) Whenever such an order is given, no Member shall accept any order to purchase, sell or exercise any options contract for the account of the person or persons named in the order, unless and until the Exchange expressly approves such person or persons for options transactions.

Rule 417. Limit on Outstanding Uncovered Short Positions

(a) Whenever it is determined from the reports of uncovered short positions submitted pursuant to Rule 1401 (Reports of Uncovered Short Positions), viewed in light of current market conditions in options and in underlying securities, that there are outstanding an excessive number of uncovered short positions in options contracts of a given class traded on the Exchange or that an excessively high percentage of outstanding short positions in options contracts of a given class traded on the Exchange are uncovered, the Board or a committee or Exchange official designated by the Board may determine to prohibit Members from any further opening writing transactions on any exchange in options contracts of that class unless the resulting short position will be covered, and it may prohibit the uncovering of any existing covered short positions in one or more series of options of that class, as it deems appropriate in the interest of maintaining a fair and orderly market in options contracts or in underlying securities.

(b) The Board or a committee or Exchange official designated by the Board may exempt transactions of market makers from restrictions imposed under this Rule. Such restrictions shall be rescinded upon a determination that they are no longer appropriate.

Rule 418. Other Restrictions on Options Transactions and Exercises

(a) The Exchange may impose such restrictions on transactions or exercises in one or more series of options of any class traded on the Exchange as the Exchange in its judgment deems advisable in the interests of maintaining a fair and orderly market in options contracts or in underlying securities, or otherwise deems advisable in the public interest or for the protection of investors.

(1) During the effectiveness of such restrictions, no Member shall, for any account in which it has an interest or for the account of any customer, engage in any transaction or exercise in contravention of such restrictions.

(2) Notwithstanding the foregoing, during the ten (10) business days prior to the expiration date of a given series of options, no restriction on exercise under this Rule may be in effect with respect to that series of options.

(b) Whenever the issuer of a security underlying a call option traded on the Exchange is engaged or proposes to engage in a public underwritten distribution ("public distribution") of such underlying security or securities exchangeable for or convertible into such underlying security, the underwriters may request that the Exchange impose restrictions upon all opening writing transactions in such options at a

“discount” where the resulting short position will be uncovered (“uncovered opening writing transactions”).

(1) In addition to a request, the following conditions are necessary for the imposition of restrictions:

(i) less than a majority of the securities to be publicly distributed in such distribution are being sold by existing security holders;

(ii) the underwriters agree to notify the Exchange upon the termination of their stabilization activities; and

(iii) the underwriters initiate stabilization activities in such underlying security on a national securities exchange when the price of such security is either at a “minus” or “zero minus” tick.

(2) Upon receipt of such a request and determination that the conditions contained in paragraph (b)(1) are met, the Exchange shall impose the requested restrictions as promptly as possible but no earlier than fifteen (15) minutes after Members shall have been notified and shall terminate such restrictions upon request of the underwriters or when the Exchange otherwise discovers that stabilizing transactions by the underwriters has been terminated.

(3) For purposes of this paragraph (b), an uncovered opening writing transaction in a call option will be deemed to be effected at a “discount” when the premium in such transaction is either:

(i) in the case of a distribution of the underlying security not involving the issuance of rights and in the case of a distribution of securities exchangeable for or convertible into the underlying security, less than the amount by which the underwriters’ stabilization bid for the underlying security exceeds the exercise price of such option; or

(ii) in the case of a distribution being offered pursuant to rights, less than the amount by which the underwriters’ stabilization bid in the underlying security at the subscription price exceeds the exercise price of such option.

CHAPTER 5

Securities Traded on the Exchange

Rule 500. Designation of Securities

Securities traded on the Exchange are options contracts, each of which is designated by reference to the issuer of the underlying security, expiration month, exercise price and type (put or call).

Rule 501. Rights and Obligations of Holders and Writers

The rights and obligations of holders and writers shall be set forth in the Rules of the Clearing Corporation.

Rule 502. Criteria for Underlying Securities

(a) Underlying securities with respect to which put or call options contracts are approved for listing and trading on the Exchange must meet the following criteria:

(1) the security must be registered and (i) listed on a national securities exchange; or (ii) traded through the facilities of a national securities association and reported as a “national market system” (“NMS”) security as set forth in Rule 11Aa3-1 under the Exchange Act; and

(2) the security shall be characterized by a substantial number of outstanding shares that are widely held and actively traded.

(b) In addition, the Exchange shall from time to time establish guidelines to be considered in evaluating potential underlying securities for Exchange options transactions. There are many relevant factors which must be considered in arriving at such a determination, and the fact that a particular security may meet the guidelines established by the Exchange does not necessarily mean that it will be selected as an underlying security. Further, in exceptional circumstances an underlying security may be selected by the Exchange even though it does not meet all of the guidelines. The Exchange may also give consideration to maintaining diversity among various industries and issuers in selecting underlying securities. Notwithstanding the forgoing, however, absent exceptional circumstances, an underlying security will not be selected unless:

(1) There are a minimum of seven (7) million shares of the underlying security which are owned by persons other than those required to report their stock holdings under Section 16(a) of the Exchange Act.

(2) There are a minimum of 2,000 holders of the underlying security.

(3) The issuer is in compliance with any applicable requirements of the Exchange Act.

(4) Trading volume (in all markets in which the underlying security is traded) has been at least 2,400,000 shares in the preceding twelve (12) months.

(5) The market price per share of the underlying security has been at least $7.50 for the majority of business days during the three calendar months preceding the date of selection, as measured by the lowest closing price reported in any market in which the underlying security traded on each of the subject days.

(c) *Securities of Restructured Companies.*

(1) Definitions. The following definitions shall apply to the provisions of this paragraph (c):

(i) "Restructuring Transaction" refers to a spin-off, reorganization, recapitalization, restructuring or similar corporate transaction.

(ii) "Restructure Security" refers to an equity security that a company issues, or anticipates issuing, as the result of a Restructuring Transaction of the company.

(iii) "Original Equity Security" refers to a company's equity security that is issued and outstanding prior to the effective date of a Restructuring Transaction of the company.

(iv) "Relevant Percentage" refers to either:

(A) twenty-five percent (25%), when the applicable measure determined with respect to the Original Equity Security or the business it represents includes the business represented by the Restructure Security; or

(B) thirty-three and one-third percent (33-1/3%), when the applicable measure determined with respect to the Original Equity Security or the business it represents excludes the business represented by the Restructure Security.

(2) "Share" and "Number of Shareholder" Guidelines. In determining whether a Restructure Security satisfies the share guideline set forth in Rule 502(b)(1) (the "Share Guideline") or the number of holders guideline set forth in Rule 502(b)(2) (the "Number of Shareholders Guideline"), the Exchange may rely upon the facts and circumstances that it expects to exist on the option's intended listing date, rather than on the date on which the Exchange selects for options trading the underlying Restructure Security.

(i) The Exchange may assume that:

(A) both the "Share" and "Number of Shareholders" Guidelines are satisfied if, on the option's intended listing date, the Exchange expects no fewer than forty (40) million shares of the Restructure Security to be issued and outstanding; and

(B) either such Guideline is satisfied if, on the option's intended listing day, the Exchange expects the Restructure Security to be listed on an exchange or automatic quotation system that has, and is subject to, an initial listing requirement that is no less stringent that the Guideline in question.

(ii) The Exchange may not rely on any such assumption, however, if a reasonable Exchange investigation or that of another exchange demonstrates that either the Share Guideline or Number of Shareholders Guideline will not in fact be satisfied on an option's intended listing date.

(iii) In addition, in the case of a Restructuring Transaction in which the shares of a Restructure Security are issued or distributed to the holders of shares of an Original Equity Security, the Exchange may determine that either the Share Guideline or the Number of Shareholders Guideline is satisfied based upon the Exchange's knowledge of the outstanding shares or number of shareholders of the Original Equity Security.

(3) "Trading Volume" Guideline. In determining whether a Restructure Security that is issued or distributed to the holders of shares of an Original Equity Security (but not a Restructure Security that is issued pursuant to a public offering or rights distribution) satisfies the trading volume guideline set forth in Rule 502(b)(4) (the "Trading Volume Guideline"), the Exchange may consider the trading volume history of the Original Equity Security prior to the "ex-date" of the Restructuring Transaction if the Restructure Security satisfies the "Substantiality Test" set forth in subparagraph (c)(5) below.

(4) "Market Price" Guideline. In determining whether a Restructure Security satisfies the market price history guideline set forth in Rule 502(b)(5) (the "Market Price Guideline"), the Exchange may consider the market price history of the Original Equity Security prior to the "ex-date" of the Restructuring Transaction if:

(i) the Restructure Security satisfies the "Substantiality Test" set forth in subparagraph (c)(5) below; and

(ii) in the case of the application of the Market Price Guideline to a Restructure Security that is distributed pursuant to a public offering or a rights distribution:

(A) the Restructure Security trades “regular way” on an exchange or automatic quotation system for at least the five trading days immediately preceding the date of selection; and

(B) at the close of trading on each trading day on which the Restructure Security trades “regular way” prior to the date of selection, and the opening of trading on the date of selection, the market price of the Restructure Security was at least $7.50.

(5) The “Substantiality Test.” A Restructure Security satisfies the “Substantiality Test” if:

(i) the Restructure Security has an aggregate market value of at least $500 million; or

(ii) at least one of the following conditions is met:

(A) the aggregate market value of the Restructure Security equals or exceeds the Relevant Percentage of the aggregate market value of the Original Equity Security;

(B) the aggregate book value of the assets attributed to the business represented by the Restructure Security equals or exceeds both $50 million and the Relevant Percentage of the aggregate book value of the assets attributed to the business represented by the Original Equity Security; or

(C) the revenues attributed to the business represented by the Restructure Security equals or exceeds both $50 million and the Relevant Percentage of the revenues attributed to the business represented by the Original Equity Security.

(6) A Restructure Security’s aggregate market value may be determined from “when issued” prices, if available.

(7) In calculating comparative aggregate market values for the purpose of assessing whether a Restructure Security qualifies to underlie an option, the Exchange shall use the Restructure Security’s closing price on its primary market on the last business day prior to the selection date or the Restructure Security’s opening price on its primary market on the selection date and shall use the corresponding closing or opening price of the related Original Equity Security.

(8) In calculating comparative asset values and revenues, the Exchange shall use (i) the issuer’s latest annual financial statements or (ii) the issuer’s most recently available interim financial statements (so long as such interim financial statements cover a period of not less than three months),

whichever are more recent. Those financial statements may be audited or unaudited and may be pro forma.

(9) Except in the case of a Restructure Security that is distributed pursuant to a public offering or rights distribution, the Exchange may not rely upon the trading volume or market price history of an Original Equity Security as this paragraph (c) permits for any trading day unless it relies upon both of those measures for that trading day.

(10) Once the Exchange commences to rely upon a Restructure Security's trading volume and market price history for any trading day, the Exchange may not rely upon the trading volume and market price history of the security's related Original Equity Security for any trading day thereafter.

(11) "When Issued" Trading Prohibited. The Exchange shall not list for trading options contracts that overlie a Restructure Security that is not yet issued and outstanding, regardless of whether the Restructure Security is trading on a "when issued" basis or on another basis that is contingent upon the issuance or distribution of shares.

(d) In considering underlying securities, the Exchange shall ordinarily rely on information made publicly available by the issuer and/or the markets in which the security is traded.

(e) The word "security" shall be broadly interpreted to mean any equity security, as defined in Rule 3a11-1 under the Exchange Act, which is appropriate for options trading, and the word "shares" shall mean the unit of trading of such security.

(f) Securities deemed appropriate for options trading shall include nonconvertible preferred stock issues and American Depositary Receipts ("ADRs") if they meet the criteria and guidelines set forth in this Rule 502 and if, in the case of ADRs:

(1) the Exchange has in place an effective surveillance sharing agreement with the primary exchange in the home country where the security underlying the ADR is traded;

(2) the combined trading volume of the ADR and other related ADRs and securities (as defined below) occurring in the U.S. ADR market or in markets with which the Exchange has in place an effective surveillance sharing agreement represents (on a share equivalent basis) at least fifty percent (50%) of the combined worldwide trading volume in the ADR, the security underlying the ADR, other classes of common stock related to the underlying security, and ADRs overlying such other stock (together "other related ADRs and securities") over the three month period preceding the date of selection of the ADR for options trading;

(3) (i) the combined trading volume of the ADR and other related ADRs and securities occurring in the U.S. ADR market and in markets where the Exchange has in place an effective surveillance sharing agreement, represents (on a share equivalent basis) at least twenty percent (20%) of the combined worldwide trading volume in the ADR and in other related ADRs and securities over the three month period preceding the date of selection of the ADR for options trading, (ii) the average daily trading volume for the security in the U.S. markets over the three (3) months preceding the selection of the ADR for options trading is 100,000 or more shares, and (iii) the trading volume is at least 60,000 shares per day in U.S. markets on a majority of the trading days for the three (3) months preceding the date of selection of the ADR for options trading ("Daily Trading Volume Standard"); or

(4) the SEC otherwise authorizes the listing.

(g) Securities deemed appropriate for options trading shall include shares issued by registered closed-end management investment companies that invest in the securities of issuers based in one or more foreign countries ("International Funds") if they meet the criteria and guidelines set forth in this Rule 502 and either:

(1) the Exchange has a market information sharing agreement with the primary home exchange for each of the securities held by the fund, or

(2) the International Fund is classified as a diversified fund as that term is defined by section 5(b) of the Investment Company Act of 1940, as amended, and the securities held by the fund are issued by issuers based in five or more countries.

(h) Securities deemed appropriate for options trading shall include shares or other securities ("Fund Shares") that represent interests in registered investment companies (or series thereof) organized as open-end management investment companies, unit investment trusts or similar entities that are principally traded on a national securities exchange or through the facilities of a national securities association and reported as "national market" securities, and that hold portfolios of securities comprising or otherwise based on or representing investments in broad-based indexes or portfolios of securities (or that hold securities in one or more other registered investment companies that themselves hold such portfolios of securities) ("Funds"); provided that all of the following conditions are met:

(1) any non-U.S. component stocks of the index or portfolio on which the Fund Shares are based that are not subject to comprehensive surveillance agreements do not in the aggregate represent more than 50% of the weight of the index or portfolio;

(2) Stocks for which the primary market is in any one country that is not subject to a comprehensive surveillance agreement do not represent 20% or more of the weight of the index;

(3) stocks for which the primary market is in any two countries that are not subject to comprehensive surveillance agreements do not represent 33% or more of the weight of the index; and

(4) the Fund Shares either (i) meet the criteria and guidelines set forth in paragraphs (a) and (b) above; or (ii) the Fund Shares are available for creation or redemption each business day from or through the Fund in cash or in kind at a price related to net asset value, and the Fund is obligated to issue Fund Shares in a specified aggregate number even if some or all of the securities required to be deposited have not been received by the Fund, subject to the condition that the person obligated to deposit the securities has undertaken to deliver the securities as soon as possible and such undertaking is secured by the delivery and maintenance of collateral consisting of cash or cash equivalents satisfactory to the Fund, all as described in the Fund's prospectus.

(i) A "market information sharing agreement" for purposes of this Rule is an agreement that would permit the Exchange to obtain trading information relating to the securities held by the fund including the identity of the member of the foreign exchange executing a trade. International Fund shares not meeting criteria of paragraph (h) shall be deemed appropriate for options trading if the SEC specifically authorizes the listing.

(j) Securities deemed appropriate for options trading shall include shares or other securities ("Trust Issued Receipts") that are principally traded on a national securities exchange or through the facilities of a national securities association and reported as a national market security, and that represent ownership of the specific deposited securities held by a trust, provided:

(1) the Trust Issued Receipts (i) meet the criteria and guidelines for underlying securities set forth in paragraph (b) to this Rule; or (ii) must be available for issuance or cancellation each business day from the Trust in exchange for the underlying deposited securities; and

(2) not more than 20% of the weight of the Trust Issued Receipt is represented by ADRs on securities for which the primary market is not subject to a comprehensive surveillance agreement.

[Adopted February 24, 2000; amended March 2, 2001 (SR-ISE-2001-08); amended May 21, 2001 (SR-ISE-2001-11).]

Rule 503. Withdrawal of Approval of Underlying Securities

(a) Whenever the Exchange determines that an underlying security previously approved for Exchange options transactions does not meet the then current requirements for continuance of such approval or for any other reason should no longer be approved, the Exchange will not open for trading any additional series of options of the class covering that underlying security and may prohibit any opening purchase

transactions in series of options of that class previously opened to the extent it deems such action necessary or appropriate; provided, however, that where exceptional circumstances have caused an underlying security not to comply with the Exchange's current approval maintenance requirements regarding number of publicly held shares, number of shareholders, trading volume or market price, the Exchange may, in the interest of maintaining a fair and orderly market or for the protection of investors, determine to continue to open additional series of options contracts of the class covering that underlying security. When all options contracts with respect to any underlying security that is no longer approved have expired, the Exchange may make application to the SEC to strike from trading and listing all such options contracts.

(b) Absent exceptional circumstances, an underlying security will not be deemed to meet the Exchange's requirements for continued approval whenever any of the following occur:

(1) There are fewer than 6,300,000 shares of the underlying security held by persons other than those who are required to report their security holdings under Section 16(a) of the Exchange Act.

(2) There are fewer than 1,600 holders of the underlying security.

(3) The trading volume (in all markets in which the underlying security is traded) has been less than 1,800,000 shares in the preceding twelve (12) months.

(4) The market price per share of the underlying security closed below $5 on a majority of the business days during the preceding six (6) calendar months as measured by the highest closing price reported in any market in which the underlying security traded.

(5) The issuer has failed to make timely reports as required by applicable requirements of the Exchange Act, and such failure has not been corrected within thirty (30) days after the date the report was due to be filed.

(6) The issuer, in the case of an underlying security that is principally traded on a national securities exchange, is delisted from trading on that exchange and neither meets NMS criteria nor is traded through the facilities of a national securities association, or the issue, in the case of an underlying security that is principally traded through the facilities of a national securities association, is no longer designated as an NMS security.

(7) If an underlying security is approved for options listing and trading under the provisions of Rule 502(c), the trading volume and price history of the Original Security (as therein defined) prior to but not after the commencement of trading in the Restructure Security (as therein defined), including "when-issued" trading, may be taken into account in determining whether the trading volume and market price requirements of (3) and (4) of this

paragraph (b), as well as the trading volume and market price requirements of paragraph (e) of this Rule, are satisfied.

(c) In connection with paragraph (b)(4) of this Rule, the Exchange shall not open for trading any additional series of options contracts of the class covering an underlying security at any time when the market price per share of such underlying security is less than $5, as measured by the highest closing price reported in any market in which the underlying security trades. Further, no series of options contracts will be opened with a strike price of less than $5 per share.

(d) In considering whether any of the events specified in paragraph (b) of this Rule have occurred with respect to an underlying security, the Exchange shall ordinarily rely on information made publicly available by the issuer and/or the markets in which such security is traded.

(e) Notwithstanding paragraph (b)(4) of this Rule, nor paragraph (c) of this Rule, the Exchange may continue to open for trading additional series of options contracts of a class covering an underlying security, provided:

(1) The aggregate market value of the underlying security equals or exceeds $50 million;

(2) Customer open interest (reflected on a two-sided basis) equals or exceeds 4,000 contracts for all expiration months;

(3) Trading volume in the underlying security (in all markets in which the underlying security is trading) has been at least 2,400,000 shares in the preceding twelve (12) months; and

(4) The market price per share of the underlying security closed at $3 or above on a majority of the business days during the preceding six (6) calendar months, as measured by the highest closing price reported in any market in which the underlying security traded, and further provided the market price per share of the underlying security is at least $3 at the time such additional series are authorized for trading. During the next consecutive six (6) calendar month period, to satisfy this paragraph (e), the price of the underlying security as referenced in this paragraph (e)(4) shall be $4.

(f) If prior to the delisting of a class of options contracts covering an underlying security that has been found not to meet the Exchange's requirements for continued approval, the Exchange determines that the underlying security again meets the Exchange's requirements, the Exchange may open for trading additional series of options of that class and may lift any restriction on opening purchase transactions imposed by this Rule.

(g) Whenever the Exchange announces that approval of an underlying security has been withdrawn for any reason or that the Exchange has been informed that the issuer of an underlying security has ceased to be in compliance with SEC

reporting requirements, each Member and Member Organization shall, prior to effecting any transaction in options contracts with respect to such underlying security for a customer, inform such customer of such fact and of the fact that the Exchange may prohibit further transactions in such options contracts to the extent it shall deem such action necessary and appropriate.

(h) If an ADR was initially deemed appropriate for options trading on the grounds that fifty percent (50%) or more of the worldwide trading volume (on a share-equivalent basis) in the ADR and other related ADRs and securities takes place in U.S. markets or in markets with which the Exchange has in place an effective surveillance sharing agreement, or if an ADR was initially deemed appropriate for options trading based on the daily trading volume standard Rule 502(f)(3), the Exchange may not open for trading additional series of options on the ADR unless:

(1) The percentage of worldwide trading volume in the ADR and other related securities that takes place in the U.S. and in markets with which the Exchange has in place effective surveillance sharing agreements for any consecutive three (3) month period is either (i) at least thirty percent (30%) without regard to the average daily trading volume in the ADR, or (ii) at least fifteen percent (15%) when the average U.S. daily trading volume in the ADR for the previous three (3) months is at least 70,000 shares; or

(2) the Exchange then has in place an effective surveillance sharing agreement with the primary exchange in the home country where the security underlying the ADR is traded; or

(3) the SEC has otherwise authorized the listing.

(i) Fund Shares approved for options trading pursuant to Rule 502(h) will not be deemed to meet the requirements for continued approval, and the Exchange shall not open for trading any additional series of option contracts of the class covering such Fund Shares if the issuer is delisted from trading as provided in subparagraph (b)(6) of this Rule. In addition, the Exchange shall consider the suspension of opening transactions in any series of options of the class covering Fund Shares in any of the following circumstances:

(1) In the case of options covering Fund Shares approved pursuant to Rule 502(h)(4)(i), in accordance with the terms of subparagraphs (b)(1), (2), (3) and (4) of this Rule 503;

(2) In the case of options covering Fund Shares approved pursuant to Rule 502(h)(4)(ii), following the initial twelve-month period beginning upon the commencement of trading in the Fund Shares on a national securities exchange or as NMS securities through the facilities of a national securities association there were fewer than 50 record and/or beneficial holders of such Fund Shares for 30 or more consecutive trading days;

(3) the value of the index or portfolio of securities on which the

Fund Shares are based is no longer calculated or available; or

(4) such other event occurs or condition exists that in the opinion of the Exchange makes further dealing in such options on the Exchange inadvisable.

(j) Absent exceptional circumstances, securities initially approved for options trading pursuant to paragraph (j) of Rule 502 (such securities are defined and referred to in that paragraph as "Trust Issued Receipts") shall not be deemed to meet the Exchange's requirements for continued approval, and the Exchange shall not open for trading any additional series of option contracts of the class covering such Trust Issued Receipts, whenever the Trust Issued Receipts are delisted and trading in the Receipts is suspended on a national securities exchange, or the Trust Issued Receipts are no longer traded as national market securities through the facilities of a national securities association. In addition, the Exchange shall consider the suspension of opening transactions in any series of options of the class covering Trust Issued Receipts in any of the following circumstances:

(1) in accordance with the terms of paragraph (b) this Rule 503 in the case of options covering Trust Issued Receipts when such options were approved pursuant to subparagraph (j)(1)(i) under Rule 502;

(2) the Trust has more than 60 days remaining until termination and there are fewer than 50 record and/or beneficial holders of Trust Issued Receipts for 30 or more consecutive trading days;

(3) the Trust has fewer than 50,000 receipts issued and outstanding;

(4) the market value of all receipts issued and outstanding is less than $1,000,000; or

(5) such other event shall occur or condition exist that in the opinion of the Exchange makes further dealing in such options on the Exchange inadvisable.

(k) For Holding Company Depositary Receipts (HOLDRs), the Exchange will not open additional series of options overlying HOLDRs (without prior Commission approval) if:

(1) the proportion of securities underlying standardized equity options to all securities held in a HOLDRs trust is less than 80% (as measured by their relative weightings in the HOLDRs trust); or

(2) less than 80% of the total number of securities held in a HOLDRs trust underlie standardized equity options.

[Adopted February 24, 2000; amended March 2, 2001 (SR-ISE-2001-08); amended May 21, 2001 (SR-ISE-2001-11).]

Rule 504. Series of Options Contracts Open for Trading

(a) After a particular class of options has been approved for listing and trading on the Exchange, the Exchange from time to time may open for trading series of options in that class. Only options contracts in series of options currently open for trading may be purchased or written on the Exchange. Prior to the opening of trading in a given series, the Exchange will fix the expiration month, year and exercise price of that series.

(b) At the commencement of trading on the Exchange of a particular class of options, the Exchange usually will open three (3) series of options for each expiration month in that class. The exercise price of each series will be fixed at a price per share, with at least one strike price above and one strike price below the price at which the underlying stock is traded in the primary market at about the time that class of options is first opened for trading on the Exchange.

(c) Additional series of options of the same class may be opened for trading on the Exchange when the Exchange deems it necessary to maintain an orderly market, to meet customer demand or when the market price of the underlying stock moves substantially from the initial exercise price or prices. The opening of a new series of options shall not affect the series of options of the same class previously opened.

(d) The interval between strike prices of series of options on individual stocks will be:

(1) $2.50 or greater where the strike price is $25.00 or less;

(2) $5.00 or greater where the strike price is greater than $25.00; and

(3) $10.00 or greater where the strike price is greater than $200.00.

(e) The Exchange usually will open four (4) expiration months for each class of options open for trading on the Exchange: the first two (2) being the two (2) nearest months, regardless of the quarterly cycle on which that class trades; the third and fourth being the next two (2) months of the quarterly cycle previously designated by the Exchange for that specific class. For example:

(1) If the Exchange listed in late April a new stock option on a January-April-July-October quarterly cycle, the Exchange would list the two (2) nearest term months (May and June) and the next two (2) expiration months of the cycle (July and October).

(2) When the May series expires, the Exchange would add a January series. When the June series expires, the Exchange would add an August series as the next nearest month and would not add an April series.

(f) New series of options on an individual stock may be added until the beginning of the month in which the options contract will expire. Due to unusual market conditions, the Exchange, in its discretion, may add new series of options on an individual stock until five (5) business days prior to expiration. Notwithstanding the foregoing, a new series of FLEX Equity Options, as defined in and subject to the provisions of Chapter 9 (FLEX Equity Options), may be added on any business day prior to the expiration date.

(g) The options exchanges may select up to 200 options classes on individual stocks for which the interval of strike prices will be $2.50 where the strike price is greater than $25 but less than $50. The 200 options classes may be selected by the various options exchanges pursuant to any agreement mutually agreed to by the individual exchanges. In addition to those options selected by the Exchange, the strike price interval may be $2.50 in any multiply-traded option once another exchange trading that option selects such option as part of this program. The Exchange and any of the other exchanges may also list strike prices of $2.50 on any options class that was previously selected by the NYSE.

(h) The interval between strike prices of series of options on Fund Shares approved for options trading pursuant to Rule 502(h) shall be fixed at a price per share which is reasonably close to the price per share at which the underlying security is traded in the primary market at or about the same time such series of options is first open for trading on the Exchange, or at such intervals as may have been established on another options exchange prior to the initiation of trading on the Exchange.

[Adopted February 24, 2000; amended March 2, 2001 (SR-ISE-2001-08).]

Rule 505. Adjustments

Options contracts shall be subject to adjustments in accordance with the Rules of the Clearing Corporation. When adjustments have been made, the Exchange will announce that fact, and such changes will be effective for all subsequent transactions in that series at the time specified in the announcement.

Rule 506. Long-Term Options Contracts

(a) Notwithstanding conflicting language in Rule 504, the Exchange may list long-term options contracts that expire from twelve (12) to thirty-nine (39) months from the time they are listed. There may be up to six (6) additional expiration months. Strike price interval, bid/ask differential and continuity rules shall not apply to such options series until the time to expiration is less than nine (9) months.

(b) After a new long-term options contract series is listed, such series will be opened for trading either when there is buying or selling interest, or forty (40)

minutes prior to the close, whichever occurs first. No quotations will be posted for such options series until they are opened for trading.

CHAPTER 6

Doing Business With the Public

Rule 600. Exchange Approval

An Electronic Access Member may be approved by the Exchange to transact business with the public only if such Member is also a member of another registered national securities exchange or association with which the Exchange has entered into an agreement under Rule 17d-2 under the Exchange Act pursuant to which such other exchange or association shall be the designated examining authority for the Member. Approval to transact business with the public shall be based on a Member's meeting the general requirements set forth in this Chapter and the net capital requirements set forth in Chapter 13 (Net Capital Requirements). Such approval may be withdrawn if any such requirements cease to be met.

Rule 601. Registration of Options Principals

(a) No Member shall be approved to transact options business with the public until those associated persons who are designated as Options Principals have been approved by and registered with the Exchange. Persons engaged in the management of the Member's business pertaining to options contracts shall be designated as Options Principals.

(b) In connection with their registration, Options Principals shall file an application with the Secretary on a form prescribed by the Exchange, shall successfully complete an examination prescribed by the Exchange for the purpose of demonstrating an adequate knowledge of the options business, and shall sign an agreement to abide by the Constitution and Rules of the Exchange and the Rules of the Clearing Corporation; provided, however, that Options Principals of Members that are members of another national securities exchange or association that has standards of approval acceptable to the Exchange may be deemed to be approved by and registered with the Exchange, so long as such Options Principals are approved by and registered with such other exchange or association.

(c) Termination of employment or affiliation of any Options Principal in such capacity shall be reported promptly to the Exchange together with a brief statement of the reason for such termination.

Rule 602. Registration of Representatives

(a) No Member shall be approved to transact business with the public until those persons associated with it who are designated Representatives have been approved by and registered with the Exchange.

(b) Persons who perform duties for the Member which are customarily performed by sales representatives or branch office managers shall be designated as Representatives of the Member.

(c) In connection with their registration, Representatives shall file an application on a form prescribed by the Exchange, shall successfully complete an examination prescribed by the Exchange for the purpose of demonstrating an adequate knowledge of the securities business, and shall sign an agreement to abide by the Constitution and Rules of the Exchange and the Rules of the Clearing Corporation; provided, however, that Representatives of Members that are members of another national securities exchange or association that has standards of approval acceptable to the Exchange may be deemed to be approved by and registered with the Exchange, so long as such Representatives are approved by and registered with such other exchange or association.

Rule 603. Termination of Registered Persons

(a) The discharge or termination of employment of any registered person, together with the reasons therefor, shall be reported by a Member immediately following the date of termination, but in no event later than thirty (30) days following termination, to the Exchange on a Uniform Termination Notice for Securities Industry Registration (Form U-5). A copy of said termination notice shall be provided concurrently to the person whose association has been terminated.

(b) The Member shall report to the Exchange, by means of an amendment to the Form U-5 filed pursuant to paragraph (a) above, in the event that the Member learns of facts or circumstances causing any information set forth in the notice to become inaccurate or incomplete. Such amendment shall be filed with the Exchange and provided concurrently to the person whose association has been terminated no later than thirty (30) days after the Member learns of the facts or circumstances giving rise to the amendment.

(c) Any filing or submission requirement under this Rule shall be deemed to be satisfied if such filing or submission is made with the North American Securities Administrators Association/National Association of Securities Dealers, Inc. Central Registration Depository ("CRD") within the prescribed time period.

Rule 604. Continuing Education for Registered Persons

(a) *Regulatory Element*. No Member shall permit any registered person to continue to, and no registered person shall continue to, perform duties as a registered person, unless such person has complied with the continuing education requirements of this paragraph (a). Each registered person shall complete the Regulatory Element of the continuing education program on the occurrence of their second registration anniversary date and every three years thereafter or as otherwise prescribed by the Exchange. On each occasion, the Regulatory Element must be completed within 120 days after the person's registration anniversary date. A person's initial registration date

shall establish the cycle of anniversary dates for purposes of this Rule. The content of the Regulatory Element of the program shall be determined by the Exchange for each registration category of persons subject to the Rule.

(1) Persons who have been continuously registered for more than ten (10) years as of July 1, 1998, are exempt from the requirements of this Rule relative to participation in the Regulatory Element of the continuing education program, provided such persons have not been subject to any disciplinary action within the last ten (10) years as enumerated in subsections (a)(3)(i)-(ii) of this Rule.

(i) However, persons delegated supervisory responsibility or authority pursuant to Rule 609 and registered in such supervisory capacity are exempt from participation in the Regulatory Element under this provision only if they have been continuously registered in a supervisory capacity for more than ten (10) years as of the effective date of this Rule and provided that such supervisory person has not been subject to any disciplinary action under subsections (a)(3)(i)-(ii) of this Rule.

(ii) In the event that a registered person who is exempt from participation in the Regulatory Element subsequently becomes the subject of a disciplinary action as enumerated in subsections (a)(3)(i)-(ii), such person shall be required to satisfy the requirements of the Regulatory Element as if the date the disciplinary action becomes final is the person's initial registration anniversary date.

(2) Failure to Complete. Unless otherwise determined by the Exchange, any registered persons who have not completed the Regulatory Element of the program within the prescribed time frames will have their registration deemed inactive until such time as the requirements of the program have been satisfied. Any person whose registration has been deemed inactive under this Rule shall cease all activities as a registered person and is prohibited from performing any duties and functioning in any capacity requiring registration. The Exchange may, upon application and a showing of good cause, allow for additional time for a registered person to satisfy the program requirements.

(3) Re-Entry Into Program. Unless otherwise determined by the Exchange, a registered person will be required to re-enter the Regulatory Element and satisfy all of its requirements in the event such person:

(i) becomes subject to any statutory disqualification as defined in Section 3(a)(39) of the Exchange Act,

(ii) becomes subject to suspension or to the imposition of a fine of $5,000 or more for violation of any provision of any securities law or regulation, or any agreement with or rule or standard of conduct of any

securities governmental agency, securities SRO, or as imposed by any such regulatory organization in connection with a disciplinary proceeding, or

(iii) is ordered as a sanction in a disciplinary action to re-enter the continuing education program by any securities governmental agency or securities SRO.

Re-entry shall commence with initial participation within 120 days of the registered person becoming subject to the statutory disqualification, in the case of (i) above, or the disciplinary action becoming final, in the case of (ii) or (iii) above. The date that the disciplinary action becomes final will be deemed the person's initial registration anniversary date for purposes of this Rule.

(b) *Firm Element*.

(1) Persons Subject to the Firm Element. The requirements of paragraph (b) of this Rule shall apply to any registered person who has direct contact with customers in the conduct of the Member's securities sales, trading or investment banking activities, and to the immediate supervisors of such persons (collectively "covered registered persons").

(2) Standards.

(i) Each Member must maintain a continuing and current education program for its covered registered persons to enhance their securities knowledge, skills and professionalism. At a minimum each Member shall at least annually evaluate and prioritize its training needs and develop a written training plan. The plan must take into consideration the Member's size, organizational structure and scope of business activities, as well as regulatory development and the performance of covered registered persons in the Regulatory Element. If a Member's analysis determines a need for supervisory training for persons with supervisory responsibilities, such training must be included in the Member's training plan.

(ii) Minimum Standards for Training Programs. Programs used to implement a Member's training plan must be appropriate for the business of the Member and, at a minimum, must cover the following matters concerning securities products, services and strategies offered by the Member:

(A) general investment features and associated risk factors;

(B) suitability and sales practice considerations; and

(C) applicable regulatory requirements.

(iii) Administration of Continuing Education Program. Each Member must administer its continuing education program in accordance with its annual evaluation and written plan and must maintain records documenting the content of the programs and completion of the programs by covered registered persons.

(3) Participation in the Firm Element. Covered registered persons included in a Member's plan must take all appropriate and reasonable steps to participate in continuing education programs as required by the Member.

Supplementary Material to Rule 604

.01 For purposes of this Rule, the term "registered person" means any Member, Representative or other person registered or required to be registered under the Rules, but does not include any such person whose activities are limited solely to the transaction of business on the Exchange with Members or registered broker-dealers.

.02 For purposes of this Rule, the term "customer" means any natural person or any organization, other than a registered broker or dealer, executing transactions in securities or other similar instruments with or through, or receiving investment banking services from, a Member.

.03 Any registered person who has terminated association with a registered broker or dealer and who has, within two (2) years of the date of termination, become reassociated in a registered capacity with a registered broker or dealer shall participate in the Regulatory Element of the continuing education program as such intervals that apply (second registration anniversary and every three years thereafter) based on the initial registration anniversary date, rather than based on the date of reassociation in a registered capacity. Any former registered person who becomes reassociated in a registered capacity with a registered broker or dealer more than two (2) years after termination as such will be required to satisfy the program's requirements in their entirety (second registration anniversary and every three years thereafter), based on the most recent registration date.

.04 A registration that is deemed inactive for a period of two (2) calendar years pursuant to paragraph (a)(2) of this Rule for failure of a registered person to complete the Regulatory Element, shall be terminated. A person whose registration is so terminated may become registered only by reapplying for registration and satisfying applicable registration and qualification requirements of the Exchange's Rules.

Rule 605. Other Affiliations of Registered Persons

Except with the express written permission of the Exchange, every registered person shall devote his entire time during business hours to the business of the Member employing him, or to the business of its affiliates that are engaged in the transaction of business as a broker or dealer in securities or commodities or in such

other businesses as have been approved by the Member's designated examining authority.

Rule 606. Discipline, Suspension, Expulsion of Registered Persons

The Exchange may discipline, suspend or terminate the registration of any registered person for violation of the Constitution or Rules of the Exchange or the Rules of the Clearing Corporation.

Rule 607. Branch Offices

(a) Every Member approved to do options business with the public under this Chapter shall file with the Exchange and keep current a list of each of its branch offices showing the location of each such office and the name of the manager of each such office.

(b) No branch office of a Member shall transact options business with the public unless the manager of such branch office has been qualified as an Options Principal; provided, that this requirement shall not apply to branch offices in which not more than three (3) Representatives are located so long as the Member can demonstrate that the options activities of such branch offices are appropriately supervised by an Options Principal.

Rule 608. Opening of Accounts

(a) *Approval Required.* No Member shall accept an order from a customer to purchase or write an options contract unless the customer's account has been approved for options transactions in accordance with the provisions of this Rule.

(b) *Diligence in Opening Account.* In approving a customer's account for options transactions, a Member shall exercise due diligence to learn the essential facts as to the customer and his investment objectives and financial situation, and shall make a record of such information, which shall be retained in accordance with Rule 609. Based upon such information, the branch office manager or other Options Principal shall approve in writing the customer's account for options transactions; provided, that if the branch office manager is not an Options Principal, his approval shall within a reasonable time be confirmed by an Options Principal.

(1) In fulfilling its obligations under this paragraph with respect to options customers that are natural persons, a Member shall seek to obtain the following information at a minimum (information shall be obtained for all participants in a joint account):

(i) investment objectives (*e.g.*, safety of principal, income, growth, trading profits, speculation);

(ii) employment status (name of employer, self-employed or retired);

(iii) estimated annual income from all sources;

(iv) estimated net worth (exclusive of family residence);

(v) estimated liquid net worth (cash, securities, other);

(vi) marital status;

(vii) number of dependents;

(viii) age; and

(ix) investment experience and knowledge (*e.g.*, number of years, size, frequency and type of transactions for options, stocks and bonds, commodities, other).

(2) In addition to the information required in subparagraph (1) above, the customer's account records shall contain the following information, if applicable:

(i) source or sources of background and financial information (including estimates) concerning the customer;

(ii) discretionary trading authorization, including agreement on file, name, relationship to customer and experience of person holding trading authority;

(iii) date(s) options disclosure document(s) furnished to customer;

(iv) nature and types of transactions for which account is approved (*e.g.*, buying, covered writing, uncovered writing, spreading, discretionary transactions);

(v) name of Representative;

(vi) name of Options Principal approving account;

(vii) date of approval; and

(viii) dates of verification of currency of account information.

(3) Refusal of a customer to provide any of the information called for in this paragraph shall be so noted on the customer's records at the time the account is opened. Information provided shall be considered together with other

information available in determining whether and to what extent to approve the account for options transactions.

(c) *Verification of Customer Background and Financial Information.* The background and financial information upon which the account of every new customer that is a natural person has been approved for options trading, including all of the information required in paragraph (b)(2) of this Rule, unless the information is included in the customer's account agreement, shall be sent to the customer for verification or correction within fifteen (15) days after the customer's account has been approved for options transactions. A copy of the background and financial information on file with the Member shall also be sent to the customer for verification within fifteen (15) days after the Member becomes aware of any material change in the customer's financial situation. Absent advice from the customer to the contrary, the information will be deemed to be verified.

(d) *Agreements to Be Obtained.* Within fifteen (15) days after a customer's account has been approved for options transactions, a Member shall obtain from the customer a written agreement that the account shall be handled in accordance with the Rules of the Exchange and the Rules of the Clearing Corporation and that such customer, acting alone or in concert with others, will not violate the position or exercise limits set forth in Rules 412 and 414.

(e) *Options Disclosure Documents to Be Furnished.* At or prior to the time a customer's account is approved for options transactions, a Member shall furnish the customer with one (1) or more current options disclosure documents in accordance with the requirements of Rule 616.

(f) Every Member transacting business with the public in uncovered options contracts shall develop, implement and maintain specific written procedures governing the conduct of such business that shall at least include the following:

(1) specific criteria and standards to be used in evaluating the suitability of a customer for uncovered short options transactions;

(2) specific procedures for approval of accounts engaged in writing uncovered short options contracts (which for the purposes of this Rule shall include combinations and any transactions that involve naked writing), including written approval of such accounts by an Options Principal;

(3) designation of the Senior Options Principal and/or Compliance Options Principal as the person responsible for approving accounts that do not meet the specific criteria and standards for writing uncovered short options transactions and for maintaining written records of the reasons for every account so approved;

(4) establishment of specific minimum net equity requirements for initial approval and maintenance of customer uncovered options accounts; and

(5) requirements that customers approved for writing uncovered short options transactions be provided with a special written description of the risks inherent in writing uncovered short options transactions, at or prior to the initial uncovered short options transaction pursuant to Rule 616(c).

Rule 609. Supervision of Accounts

(a) *Duty to Supervise-- Non-Member Accounts*. Every Member shall develop and implement a written program for the review of the its non-Member customer accounts and all orders in such accounts, insofar as such accounts and orders relate to options contracts.

(b) *Duty to Supervise-- Uncovered Short Options.* Every Member shall develop and implement specific written procedures concerning the manner of supervision of customer accounts maintaining uncovered short (written) options positions (which for the purposes of this Rule shall include combinations and any transactions that involve naked writing) and specifically providing for frequent supervisory review of such accounts.

(c) *Senior Options Principal.* Each Member shall designate a Senior Options Principal who is specifically identified to the Exchange and who is an officer (in the case of a corporation) or general partner (in the case of a partnership) or manager (in the case of a limited liability company) of the Member to supervise compliance with paragraphs (a) and (b) of this Rule. In meeting his responsibility for supervision of non-member customers' accounts and orders, the Senior Options Principal may delegate to qualified employees responsibility and authority for supervision and control of each branch office handling options transactions, provided that the Senior Options Principal shall have overall authority and responsibility for establishing appropriate procedures of supervision and control over such employees.

(d) *Compliance Options Principal.* Every Member shall designate and specifically identify to the Exchange a Compliance Options Principal (who may be the Senior Options Principal), who shall have no sales functions and shall be responsible to review, and to propose appropriate action to secure, the Member's compliance with securities laws and regulations and Exchange Rules with respect to its options business.

(1) The Compliance Options Principal shall regularly furnish reports directly to the compliance officer (if the Compliance Options Principal is not himself the compliance officer) and to other senior management of the Member.

(2) The requirement that the Compliance Options Principal shall have no sales functions does not apply to a Member that has received less than $1 million in gross commissions on options business as reflected in its FOCUS reports for either of the preceding two (2) fiscal years or that currently has ten (10) or fewer Representatives.

(e) *Maintenance of Customer Records.* Background and financial information of customers who have been approved for options transactions shall be maintained at the principal supervisory office having jurisdiction over the office servicing a customer's account, or shall have readily accessible and promptly retrievable, information to permit review of each customer's options account on a timely basis to determine:

(1) the compatibility of options transactions with investment objectives and with the types of transactions for which the account was approved;

(2) the size and frequency of options transactions;

(3) commission activity in the account;

(4) profit or loss in the account;

(5) undue concentration in any options class or classes; and

(6) compliance with the provisions of Regulation T of the Federal Reserve Board.

Rule 610. Suitability of Recommendations

(a) Every Member, Options Principal or Representative who recommends to a customer the purchase or sale (writing) of any options contract shall have reasonable grounds for believing that the recommendation is not unsuitable for such customer on the basis of the information furnished by such customer after reasonable inquiry as to his investment objectives, financial situation and needs, and any other information known by such Member, Options Principal or Representative.

(b) No Member, Options Principal or Representative shall recommend to a customer an opening transaction in any options contract unless the person making the recommendation has a reasonable basis for believing at the time of making the recommendation that the customer has such knowledge and experience in financial matters that he may reasonably be expected to be capable of evaluating the risks of the recommended transaction, and is financially able to bear the risks of the recommended position in the options contract.

Rule 611. Discretionary Accounts

(a) *Authorization and Approval Required.* No Member shall exercise any discretionary power with respect to trading in options contracts in a customer's account unless such customer has given prior written authorization and the account has been accepted in writing by an Options Principal.

(1) The Senior Options Principal shall review the acceptance of each discretionary account to determine that the Options Principal accepting the

account had a reasonable basis for believing that the customer was able to understand and bear the risks of the strategies or transactions proposed, and the Senior Options Principal shall maintain a record of the basis for his determination.

(2) Each discretionary order shall be approved and initialled on the day entered by the branch office manager or other Options Principal, provided that if the branch office manager is not an Options Principal, his approval shall be confirmed within a reasonable time by an Options Principal.

(3) Every discretionary order shall be identified as discretionary on the order at the time of its entry into the System.

(4) Discretionary accounts shall receive frequent appropriate supervisory review by the Compliance Options Principal.

(b) *Record of Transactions.* A record shall be made of every options transaction for an account with respect to which a Member is vested with any discretionary power, such record to include the name of the customer, options class and series, number of contracts, premium, and date and time when such transaction took place.

(c) *Excessive Transactions Prohibited.* No Member shall effect with or for any customer's account with respect to which such Member is vested with any discretionary power any transactions of purchase or sale of options contracts that are excessive in size or frequency in view of the financial resources and character of such account.

(d) *Options Programs.* Where the discretionary account utilizes options programs involving the systematic use of one or more options strategies, the customer shall be furnished with a written explanation (meeting the requirements of Rule 623) of the nature and risks of such programs.

Rule 612. Confirmation to Customers

(a) Every Member shall promptly furnish to each customer a written confirmation of each transaction in options contracts that shows the underlying security, type of options, expiration month, exercise price, number of options contracts, premium, commissions, date of transaction and settlement date, and shall indicate whether the transaction is a purchase or sale and whether a principal or agency transaction.

(b) The confirmation shall, by appropriate symbols, distinguish between Exchange Transactions and other transactions in options contracts.

Rule 613. Statement of Accounts to Customers

(a) Every Member shall send to its customers a statement of account showing security and money positions, entries, interest charges and any special

charges that have been assessed against such account during the period covered by the statement; provided, however, that such charges need not be specifically delineated on the statement if they are otherwise accounted for on the statement and have been itemized on transaction confirmations.

(b) With respect to options customers having a general (margin) account, the customer statement shall also provide the mark-to-market price and market value of each options position and other security position in the general (margin) account, the total market value of all positions in the account, the outstanding debit or credit balance in the account, and the general (margin) account equity.

(1) For purposes of this paragraph, general (margin) account equity shall be computed by subtracting the total of the short security values and any debit balance from the total of the long security values and any credit balance.

(c) The customer statement shall bear a legend stating that further information with respect to commissions and other charges related to the execution of listed options transactions has been included in confirmations of such transactions previously furnished to the customer, and that such information will be made available to the customer promptly upon request.

(d) Customer statements shall bear a legend requesting that the customer promptly advise the Member of any material change in the customer's investment objectives or financial situation.

(e) Customer statements shall be sent at least quarterly to all accounts having a money or a security position during the preceding quarter and at least monthly to all accounts having an entry during the preceding month.

Rule 614. Statements of Financial Condition to Customers

Every Member shall send to each of its customers statements of the Member's financial condition as required by Rule 17a-5 under the Exchange Act.

Rule 615. Addressing of Communications to Customers

No Member shall address any communications to a customer in care of any other person unless either (i) the customer, within the preceding twelve (12) months, has instructed the Member in writing to send communications in care of such other persons, or (ii) duplicate copies are sent to the customer at some other address designated in writing by him.

Rule 616. Delivery of Current Options Disclosure Documents and Prospectus

(a) *Options Disclosure Documents.* Every Member shall deliver a current options disclosure document to each customer at or prior to the time such customer's account is approved for options transactions. Where a customer is a broker or dealer,

the Member shall take reasonable steps to assure that such broker or dealer is furnished reasonable quantities of current options disclosure documents, as requested by the broker or dealer, to enable it to comply with the requirements of this Rule.

(1) The term "current options disclosure document" means, as to any category of underlying security, the most recent edition of such document that meets the requirements of Rule 9b-1 under the Exchange Act.

(2) A copy of each amendment to an options disclosure document shall be furnished to each customer who was previously furnished the options disclosure document to which the amendment pertains, not later than the time a confirmation of a transaction in the category of options to which the amendment pertains is delivered to such customer. The Exchange will advise Members when an options disclosure document is amended.

(b) *Prospectus.* Every Member shall furnish a copy of the current prospectus of the Clearing Corporation to each customer who requests one. The Exchange will advise Members when a new prospectus is available. The term "current prospectus of Clearing Corporation" means the prospectus portion of the most recent Form S-20, which prospectus portion then meets the delivery requirements of Rule 153b under the Securities Act.

(c) The written description of risks required by Rule 608(f)(5) shall be in a format prescribed by the Exchange or in a format developed by the Member, provided it contains substantially similar information as the prescribed Exchange format and has received prior written approval of the Exchange.

(d) Sample risk description for use by Members to satisfy the requirements of paragraph (c) of this Rule.

Special Statement for Uncovered Options Writers

There are special risks associated with uncovered options writing which expose the investor to potentially significant loss. Therefore, this type of strategy may not be suitable for all customers approved for options transactions.

1. The potential loss of uncovered call writing is unlimited. The writer of an uncovered call is in an extremely risky position, and may incur large losses if the value of the underlying instrument increases above the exercise price.

2. As with writing uncovered calls, the risk of writing uncovered put options is substantial. The writer of an uncovered put option bears a risk of loss if the value of the underlying instrument declines below the exercise price. Such loss could be substantial if there is a significant decline in the value of the underlying instrument.

3. Uncovered options writing is thus suitable only for the knowledgeable investor who understands the risks, has the financial capacity and willingness to incur potentially *substantial* losses, and has sufficient liquid assets to meet applicable margin requirements. In this regard, if the value of the underlying instrument moves against an uncovered writer's options position, the investor's broker may request significant additional margin payments. If an investor does not make such margin payments, the broker may liquidate stock or options positions in the investor's account with little or no prior notice in accordance with the investor's margin agreement.

4. For combination writing, where the investor writes both a put and a call on the same underlying instrument, the potential risk is unlimited.

5. If a secondary market in options were to become unavailable, investors could not engage in closing transactions, and an options writer would remain obligated until expiration or assignment.

6. The writer of an American-style option is subject to being assigned an exercise at any time after he has written the option until the option expires. By contrast, the writer of a European-style option is subject to exercise assignment only during the exercise period.

NOTE: It is expected that you will read the booklet entitled CHARACTERISTICS AND RISKS OF STANDARDIZED OPTIONS available from your broker. In particular, your attention is directed to the chapter entitled Risks of Buying and Writing Options. This statement is not intended to enumerate all of the risks entailed in writing uncovered options.

Rule 617. Restrictions on Pledge and Lending of Customers' Securities

(a) No Member shall lend, either to itself or to others, securities carried for the account of any customer, unless such Member shall first have obtained a separate written authorization from such customer permitting the lending of the securities.

(b) Regardless of any agreement between a Member and a customer authorizing the Member to lend or pledge such securities, no Member shall lend or pledge more of such securities than is fair and reasonable in view of the indebtedness of the customer to such Member, except such lending as may be specifically authorized under paragraph (c) of this Rule.

(c) No Member shall lend securities carried for the account of any customer that have been fully paid for, or that are in excess of the amount that may be loaned in view of the indebtedness of the customer, unless such Member first obtains

from such customer a separate written authorization designating the particular securities to be loaned.

(d) No Member shall hold securities carried for the account of any customer that have been fully paid for, or that are in excess of the amount that may be pledged in view of the indebtedness of the customer, unless such securities are segregated and identified by a method that clearly indicates the interest of such customer in those securities.

Rule 618. Transactions of Certain Customers

(a) No Member shall execute any transaction in securities or carry a position in any security in which:

> (1) an officer or employee of the Exchange, or any other national securities exchange that is a participant of the Clearing Corporation, or an officer or employee of a corporation in which the Exchange or such other exchange owns the majority of the capital stock, is directly or indirectly interested, without the prior written consent of the Exchange; or
>
> (2) a partner, officer, director, principal shareholder or employee of another Member is directly or indirectly interested, without the consent of such other Member.

(b) Where the required consent has been granted, duplicate reports of the transaction and position shall promptly be sent to the Exchange or Member, as the case may be.

Rule 619. Guarantees

No Member shall guarantee a customer against loss in his account or in any transaction effected with or for such customer.

Rule 620. Profit Sharing

(a) No Member, Options Principal, Representative, officer, partner or branch office manager of the Member shall share directly or indirectly in the profits or losses in any customer's account, whether carried by such Member, or any other Member, without the prior written consent of the Member carrying the account.

(b) Where such consent is obtained, the Member, Options Principal, Representative, officer, partner or branch office manager shall share in the profits or losses in such account only in direct proportion to the financial contribution made to the account by such person.

Rule 621. Assuming Losses

No Member shall assume for its own account any position established for a customer in a security traded on the Exchange after a loss to the customer has been established or ascertained, unless the position was created by the Member's mistake or unless approval of the Exchange has first been obtained.

Rule 622. Transfer of Accounts

(a) When a customer whose securities account is carried by a Member (the "Carrying Member") wants to transfer the entire account to another Member (the "Receiving Member") and gives written notice of that fact to the Receiving Member, both Members must expedite and coordinate activities with respect to the transfer. For purposes of this Rule, the term "securities account" shall be deemed to include any and all of the account's money market fund positions or the redemption value thereof.

(b) (1) Upon receipt from the customer of a signed broker-to-broker transfer instruction to receive such customer's securities account, the Receiving Member will immediately submit such instruction to the Carrying Member. The Carrying Member must, within five (5) business days following receipt of such instruction, (i) validate and return the transfer instruction (with an attachment reflecting all positions and money balances as shown on its books) to the Receiving Member, or (ii) take exception to the transfer instruction for reasons other than securities positions or money balance discrepancies and advise the Receiving Member of the exception taken.

(2) The Carrying Member and the Receiving Member must promptly resolve any exceptions taken to the transfer instruction.

(3) Within five (5) business days following the validation of a transfer instruction, the Carrying Member must complete the transfer of the customer's securities account to the Receiving Member. The Carrying Member and the Receiving Member must establish fail to receive and fail to deliver contracts at then current market values upon their respective books of account against the long/short positions (including options) in the customer's securities account that have not been physically delivered/received and the Receiving/Carrying Member must debit/credit the related money account. The customer's securities account shall thereupon be deemed transferred.

(c) Any fail contracts resulting from this account transfer procedure must be closed out within ten (10) business days after their establishment.

(d) Any discrepancies relating to positions or money balances that exist or occur after transfer of a customer's securities account must be resolved promptly.

(e) When both the Carrying Member and the Receiving Member are participants in a clearing corporation having automated customer securities account transfer capabilities, the account transfer procedure, including the establishing and

closing out of fail contracts, must be accomplished in accordance with the provisions of this Rule and pursuant to the rules of and through the clearing corporation.

(f) The Exchange may exempt from the provisions of this Rule, either unconditionally or on specified terms and conditions, (i) any Member or type of Members, or (ii) any type of account, security or financial instrument.

(g) Unless an exemption has been granted pursuant to paragraph (f) of this Rule, the Exchange may impose upon a Member a fee of up to $100 per securities account for each day such Member fails to adhere to the time frames or procedures required by this Rule.

(h) Transfer instructions and reports required by this Rule shall be in such form as may be prescribed by the Exchange.

Rule 623. Communications to Customers

(a) *General Rule.* No Member or person associated with a Member shall utilize any advertisement, educational material, sales literature or other communications to any customer or member of the public concerning options that:

(1) contains any untrue statement or omission of a material fact or is otherwise false or misleading;

(2) contains promises of specific results, exaggerated or unwarranted claims, opinions for which there is no reasonable basis or forecasts of future events that are unwarranted or that are not clearly labeled as forecasts;

(3) contains hedge clauses or disclaimers that are not legible, that attempt to disclaim responsibility for the content of such literature or for opinions expressed therein, or that are otherwise inconsistent with such communication; or

(4) would constitute a prospectus as that term is defined in the Securities Act, unless it meets the requirements of Section 10 of the Securities Act.

(b) *Definitions.* For purposes of this Rule, the following definitions shall apply:

(1) The term "advertisement" shall include any sales material that reaches a mass audience through public media such as newspapers, periodicals, magazines, radio, television, telephone recording, motion picture, audio or video device, telecommunications device, electronic communications device, billboards, signs or through written sales communications to customers or the public that are not required to be accompanied or preceded by one or more current options disclosure documents.

(2) The term "educational material" shall include any explanatory material distributed or made generally available to customers or the public that is limited to information describing the general nature of the standardized options markets or one or more strategies.

(3) The term "sales literature" shall include any written communication (not defined as an "advertisement" or as "educational material") distributed or made generally available to customers or the public that contains any analysis, performance report, projection or recommendation with respect to options, underlying securities or market conditions, any standard forms of worksheets, or any seminar text which pertains to options and which is communicated to customers or the public at seminars, lectures or similar events. "Sales literature" also includes telemarketing scripts.

(c) *Approval by Compliance Options Principal.* All advertisements, sales literature (except completed worksheets), and educational material issued by a Member pertaining to options shall be approved in advance by the Compliance Options Principal or designee. Copies thereof, together with the names of the persons who prepared the material, the names of the persons who approved the material and, in the case of sales literature, the source of any recommendations contained therein, shall be retained by the Member and kept at an easily accessible place for examination by the Exchange for a period of three (3) years.

(d) *Exchange Approval Required for Options Advertisements and Educational Material.* In addition to the approval required by paragraph (c) of this Rule, every advertisement and all educational material of a Member pertaining to options shall be submitted to the Exchange at least ten (10) days prior to use (or such shorter period as the Exchange may allow in particular instances) for approval, and if changed or expressly disapproved by the Exchange, shall be withheld from circulation until any changes specified by the Exchange have been made or, in the event of disapproval, until the advertisement or educational material has been resubmitted for, and has received, Exchange approval. The requirements of this paragraph shall not be applicable to:

(1) advertisements or educational material submitted to another SRO having comparable standards pertaining to such advertisements or educational material, and

(2) advertisements in which the only reference to options is contained in a listing of the services of a Member.

(e) Except as otherwise provided in this Rule, no written materials respecting options may be disseminated to any person who has not previously or contemporaneously received one (1) or more current options disclosure documents.

(f) The special risks attendant to options transactions and the complexities of certain options investment strategies shall be reflected in any

advertisement, educational material or sales literature that discusses the uses or advantages of options. Such communications shall include a warning to the effect that options are not suitable for all investors. In the preparation of written communications concerning options, the following guidelines shall be observed:

(1) Any statement referring to the potential opportunities or advantages presented by options shall be balanced by a statement of the corresponding risks. The risk statement shall reflect the same degree of specificity as the statement of opportunities, and broad generalities should be avoided. Thus, a statement such as "with options, an investor has an opportunity to earn profits while limiting his risk of loss," should be balanced by a statement such as "of course, an options investor may lose the entire amount committed to options in a relatively short period of time."

(2) It shall not be suggested that options are suitable for all investors.

(3) Statements suggesting the certain availability of a secondary market for options shall not be made.

(g) Advertisements pertaining to options shall conform to the following standards:

(1) Advertisements may only be used (and copies of the advertisements may not be sent to persons who have not received one or more options disclosure documents) if the material meets the requirements of Rule 134 under the Securities Act, as that Rule has been interpreted as applying to options. Under Rule 134, advertisements must be limited to general descriptions of the security being offered and of its issuer. Advertisements under this Rule shall state the name and address of the person or persons from whom the current options disclosure document(s) may be obtained. Such advertisements may have the following characteristics:

(i) The text of the advertisement may contain a brief description of such options, including a statement that the issuer of every such option is The Options Clearing Corporation. The text may also contain a brief description of the general attributes and method of operation of the exchange or exchanges on which such options are traded and of The Options Clearing Corporation, including a discussion of how the price of an option is determined on such exchange(s).

(ii) The advertisement may include any statement required by any state law or administrative authority.

(iii) Advertising designs and devices, including borders, scrolls, arrows, pointers, multiple and combined logos and unusual type faces and lettering, as well as attention-getting headlines and photographs

and other graphics, may be used, provided such material is not misleading.

(2) The use of recommendations or of past or projected performance figures, including annualized rates of return, is not permitted in any advertisement pertaining to options.

(h) Educational material, including advertisements, pertaining to options may be used if the material meets the requirements of Rule 134a under the Securities Act. Those requirements are as follows:

(1) The potential risks related to options trading generally and to each strategy addressed must be explained.

(2) No past or projected performance figures, including annualized rates of return may be used.

(3) No recommendation to purchase or sell any options contract may be made.

(4) No specific security may be identified other than:

(i) a security which is exempt from registration under the Act, or an option on such exempt security, or

(ii) an index option, including the component securities of the index, or

(iii) a foreign currency option.

(5) The material contains the name and address of a person or persons from whom the appropriate current Options Disclosure Document(s), as defined in Rule 9b-1 of the Exchange Act, may be obtained.

(i) Sales literature pertaining to options shall conform to the following standards:

(1) Sales literature shall state that supporting documentation for any claims (including any claims made on behalf of the options programs or the options expertise of sales persons), comparisons, recommendations, statistics or other technical data, will be supplied upon request.

(2) Such communications may contain projected performance figures (including projected annualized rates of return), provided that:

(i) no suggestion of certainty of future performance is made;

(ii) parameters relating to such performance figures are clearly established (*e.g.*, to indicate the exercise price of an options contract, the purchase price of the underlying stock and the options contract's market price, premium, anticipated dividends, etc.);

(iii) all relevant costs, including commissions and interest charges (if applicable with regard to margin transactions) are disclosed;

(iv) such projections are plausible and intended as a source of reference or a comparative device to be used in the development of a recommendation;

(v) all material assumptions made in such calculations are clearly identified (*e.g.*, "assume option expires," "assume option unexercised," "assume option exercised," etc.);

(vi) the risks involved in the proposed transactions are also discussed; and

(vii) in communications relating to annualized rates of return, such returns are not based upon any less than a sixty (60) day experience, any formulas used in making calculations are clearly displayed and a statement is included to the effect that the annualized returns cited might be achieved only if the parameters described can be duplicated and that there is no certainty of doing so.

(3) Such communications may feature records and statistics that portray the performance of past recommendations or of actual transactions, provided that:

(i) any such portrayal is done in a balanced manner and consists of records or statistics that are confined to a specific "universe" that can be fully isolated and circumscribed and that covers at least the most recent twelve (12) month period;

(ii) such communications include the date of each initial recommendation or transaction, the price of each such recommendation or transaction as of such date, and the date and price of each recommendation or transaction at the end of the period or when liquidation was suggested or effected, whichever was earlier; provided that if the communications are limited to summarized or averaged records or statistics in lieu of the complete record, there may be included in the number of items recommended or transacted, the number that advanced and the number that declined, together with an offer to provide the complete record upon request;

(iii) such communications disclose all relevant costs, including commissions and interest charges (if applicable with regard to

margin transactions) and, whenever annualized rates of return are used, all material assumptions used in the process of annualization;

(iv) an indication is provided of the general market conditions during the period(s) covered, and any comparison made between such records and statistics and the overall market (*e.g.*, comparison to an index) is valid;

(v) such communications state that the results presented should not and cannot be viewed as an indicator of future performance; and

(vi) an Options Principal determines that the records or statistics fairly present the status of the recommendations or transactions reported upon and so initials the report.

(4) In the case of an options program (*i.e.*, an investment plan employing the systematic use of one or more options strategies), the cumulative history or unproven nature of the program and its underlying assumptions shall be disclosed.

(5) Standard forms of options worksheets utilized by Members, in addition to complying with the requirements applicable to sales literature, must be uniform within a Member for each product type (*e.g.*, equity, index, interest rate, etc.).

(6) If a Member has adopted a standard form of worksheet for a particular options strategy, nonstandard worksheets for that strategy may not be used.

(7) Communications that portray performance of past recommendations or actual transactions and completed worksheets shall be kept at a place easily accessible to the sales office for the accounts or customers involved.

Rule 624. Brokers' Blanket Bonds

(a) Every Electronic Access Member approved to transact business with the public under this Chapter and every Clearing Member shall carry Brokers' Blanket Bonds covering officers and employees of the Member in such form and in such amounts as the Exchange may require.

(b) All Members subject to paragraph (a) of this Rule shall maintain Brokers' Blanket Bonds as follows:

(1) Maintain a Brokers' Blanket Bond similar to the standard form established by the Surety Association of America, covering officers and

employees which provides against loss and has agreements covering at least the following:

(i) Fidelity;

(ii) On Premises;

(iii) In Transit;

(iv) Misplacement;

(v) Forgery and Alteration (including check forgery);

(vi) Securities Loss (including securities forgery);

(vii) Fraudulent Trading; and

(viii) A Cancellation Rider providing that the insurance carrier will promptly notify the Exchange of cancellation, termination or substantial modification of the Bond.

(2) In determining the initial minimum coverage, the Member is to use the highest required net capital during the twelve (12) month period immediately preceding the issuance of the Brokers' Blanket Bond. Thereafter, a review for adequacy of coverage shall be made at least annually as of the anniversary date of issuance of the subject Bond, and the minimum requirement for the next twelve (12) months shall be established by reference to the highest net capital in the preceding twelve (12) months. Any necessary adjustments shall be made not more than thirty (30) days following the anniversary.

(c) The minimum required coverage for fraudulent trading shall be the greater of $25,000 or fifty percent (50%) of the coverage required in paragraph (b)(2) up to a maximum of $500,000.

(d) The minimum required coverage for securities forgery shall be the greater of $25,000 or twenty-five percent (25%) of the coverage required in paragraph (b)(2) up to a maximum of $250,000.

(e) A deductible provision of up to $5,000 or ten percent (10%) of the minimum coverage requirement, whichever is greater, may be included in the Bond.

(1) A Member may choose to maintain coverage in excess of the minimum requirements as set forth above in paragraph (b)(2) of this Rule, and in such case, a deductible provision of up to $5,000 or ten percent (10%) of the amount of the Blanket Bond coverage, whichever is greater, may be included in the Bond purchased. However, the excess of this greater deductible amount over the maximum permissible deductible amounts as described in this

paragraph must be subtracted from the Member's net worth in the calculation of the Member's net capital under SEC Rule 15c3-1.

(2) Each Member shall report the cancellation, termination or substantial modification of the Bond to the Exchange within ten (10) business days of such occurrences.

(f) Members with no employees shall be exempt from this Rule.

(g) Members subject to a bonding rule of another registered national securities exchange, the SEC, or a registered national securities association that imposes requirements that are equal to or greater than the requirements imposed by the Rule shall be deemed to be in compliance with the provisions of this Rule.

Rule 625. Customer Complaints

(a) Every Member conducting a non-member customer business shall make and keep current a separate central log, index or other file for all options-related complaints, through which these complaints can easily be identified and retrieved.

(b) The term "options-related complaint" shall mean any written statement by a customer or person acting on behalf of a customer alleging a grievance arising out of or in connection with listed options.

(c) The central file shall be located at the principal place of business of the Member or such other principal office as shall be designated by the Member.

(1) Each options-related complaint received by a branch office of a Member shall be forwarded to the office in which the separate, central file is located not later than thirty (30) days after receipt by the branch office.

(2) A copy of every options-related complaint shall be maintained at the branch office that is the subject of a complaint.

(d) At a minimum, the central file shall include:

(1) identification of complainant;

(2) date complaint was received;

(3) identification of the Representative servicing the account, if applicable;

(4) a general description of the subject of the complaint; and

(5) a record of what action, if any, has been taken by the Member with respect to the complaint.

Rule 626. Telephone Solicitation

(a) No Member or associated person shall make an outbound telephone call to any person's residence for the purpose of soliciting the purchase of securities or related services ("telemarketing" or "cold-calling") at any time other than between 8 a.m. and 9 p.m. local time at the called person's location, without that person's prior consent.

(b) No Member or associated person shall make an outbound telephone call to any person for the purpose of telemarketing without disclosing promptly and in a clear and conspicuous manner to the called person the following information:

(1) the identity of the caller and the Member firm;

(2) the telephone number or address at which the caller may be contacted; and

(3) that the purpose of the call is to solicit the purchase of securities or related services.

(c) The prohibitions of paragraphs (a) and (b) do not apply to telephone calls by an associated person (whether acting alone or at the direction of another associated person) who controls or has been assigned to a Member's existing customer account for the purpose of maintaining and servicing that account, provided that the call is to:

(1) an existing customer who, within the preceding twelve (12) months, has made a securities transaction in or has deposited funds or securities into an account, that was under the control of or assigned to that associated person at the time of the transaction or deposit;

(2) an existing customer whose account has earned interest or dividend income during the preceding twelve (12) months, and who previously has made a securities transaction in or has deposited funds or securities into an account, that was under the control of or assigned to the associated person at the time of the transaction or deposit; or

(3) a broker or dealer.

(d) For purposes of paragraph (c) above, the term "existing customer" means a customer for whom the broker or dealer, or a clearing broker or dealer on its behalf, carries on account. The scope of this Rule 626 is limited to the telemarketing calls described herein. The terms of this Rule do not impose, expressly or by implication, any additional requirements on Members with respect to the relationship between a Member and a customer or between an associated person and a customer.

(e) Each Member shall make and maintain a centralized list of persons who have informed the Member, or any employee thereof, that they do not wish to

receive telephone solicitations, and shall refrain from engaging in telephone solicitations of persons named on such list.

(f) Each Member or associated person engaged in telemarketing shall have a customer's express written authorization in order to obtain or submit for payment a check, draft, or other form of negotiable instrument drawn on a customer's checking, savings, share or similar account. Written authorization may include the customer's signature on the negotiable instrument. The authorization must be retained for at least three (3) years. This provision does not require maintenance of copies of negotiable instruments signed by customers.

(g) Members and associated persons that engage in telemarketing also are subject to the requirements of the rules of the Federal Communications Commission relating to telemarketing practices and the rights of telephone consumers.

CHAPTER 7

Doing Business On The Exchange

Rule 700. Days and Hours of Business

The Board shall determine the days the Exchange shall be open for business (referred to as "business days") and the hours of such days during which transactions may be made on the Exchange. No Member shall make any bid, offer, or transaction on the Exchange before or after such hours.

(a) Except for unusual conditions as may be determined by the Board, hours during which transactions in options on individual stocks may be made on the Exchange shall correspond to the normal business days and hours for business set forth in the rules of the primary market trading the stocks underlying Exchange options; provided, however, that transactions may be effected in an options class on the Exchange until two (2) minutes after the primary market on which the underlying stock trades closes for trading.

(b) The Exchange shall not be open for business on the following holidays: New Year's Day, Martin Luther King, Jr. Day, Presidents' Day, Good Friday, Memorial Day, Independence Day, Labor Day, Thanksgiving Day or Christmas Day. When any holiday observed by the Exchange falls on a Saturday, the Exchange will not be open for business on the preceding Friday. When any holiday observed by the Exchange falls on a Sunday, the Exchange will not be open for business on the following Monday, unless unusual business conditions exist at the time.

Rule 701. Trading Rotations

(a) *General Rules.* A "trading rotation" is a process by which the Primary Market Maker initiates trading in a specified options class.

(1) The Exchange may direct that one or more trading rotations be employed on any business day to aid in producing a fair and orderly market.

(2) For each rotation so employed, except as the Exchange may direct, rotations shall be conducted in the order and manner the Primary Market Maker determines to be appropriate under the circumstances.

(3) The Primary Market Maker, with the approval of the Exchange, shall have the authority to determine the rotation order and manner or deviate from the rotation procedures. Such authority may be exercised before and during a trading rotation.

(4) Two (2) or more trading rotations may be employed simultaneously, if the Primary Market Maker, with the approval of the Exchange, so determines.

(b) *Opening Rotations*. Trading rotations shall be employed at the opening of the Exchange each business day.

(1) For each class of options contracts that has been approved for trading, the opening rotation shall be conducted by the Primary Market Maker appointed to such class of options.

(2) The opening rotation in each class of options shall be held promptly following the opening of the underlying security in the primary market where it is traded. An underlying security shall be deemed to be opened on the primary market where it is traded if such market has (i) reported a transaction in the underlying security, or (ii) disseminated opening quotations for the underlying security and not given an indication of a delayed opening, whichever first occurs.

(3) In the event the underlying security has not opened within a reasonable time after 9:30 a.m. Eastern time, the Primary Market Maker shall report the delay to the Exchange and an inquiry shall be made to determine the cause of the delay. The opening rotation for options contracts in such security shall be delayed until the underlying security has opened unless the Exchange determines that the interests of a fair and orderly market are best served by opening trading in the options contracts.

(4) The Exchange may delay the commencement of the opening rotation in any class of options in the interests of a fair and orderly market.

(c) *Rotations After Trading Hours*. Normally, the close of trading for options classes shall occur two (2) minutes after the primary market on which the underlying stock trades closes for trading. However, as provided below transactions may be effected in a class of options after the end of normal trading hours in connection with a trading rotation.

(1) A trading rotation may be employed whenever the Exchange concludes that such action is appropriate in the interests of a fair and orderly market. The factors that may be considered include, but are not limited to, whether there has been a recent opening or reopening of trading in the underlying security, a declaration of a "fast market" pursuant to Rule 704, or a need for a rotation in connection with expiring individual stock options, an end of the year rotation, or the restart of a rotation which is already in progress.

(2) The decisions to employ a trading rotation in non-expiring options shall be disseminated prior to the commencement of such rotation. In general, no more than one trading rotation will be commenced after the normal close of trading.

(3) If a trading rotation is in progress and the Exchange determines that a final trading rotation is needed to assure a fair and orderly market close, the rotation in progress shall be halted and a final rotation begun as promptly as possible.

(4) Any trading rotation in non-expiring options conducted after the normal close of trading may not begin until five (5) minutes after news of such rotation is disseminated by the Exchange.

Rule 702. Trading Halts

(a) *Halts*. An Exchange official designated by the Board may halt trading in any stock option in the interests of a fair and orderly market.

(1) The following are among the factors that may be considered in determining whether the trading in a stock option should be halted:

(i) trading in the underlying security has been halted or suspended in the primary market.

(ii) the opening of such underlying security has been delayed because of unusual circumstances.

(iii) other unusual conditions or circumstances are present.

(2) A designated Exchange official will halt trading (including a rotation) for a class or classes of options contracts whenever there is a halt of trading in an underlying security in the primary market. In such event, without the need for action by the Primary Market Maker, all trading in the effected class or classes of options shall be halted. The Exchange shall disseminate through its trading facilities and over OPRA a symbol in respect of such class or classes of options indicating that trading has been halted, and a record of the time and duration of the halt shall be made available to vendors.

(3) No Member or person associated with a Member shall effect a trade on the Exchange in any options class in which trading has been halted under the provisions of this Rule during the time in which the halt remains in effect.

(b) *Resumptions.* Trading in a stock option that has been the subject of a halt under paragraph (a)(1) above may be resumed upon the determination by an Exchange official designated by the Board that the conditions which led to the halt are no longer present or that the interests of a fair and orderly market are best served by a resumption of trading.

Rule 703. Trading Halts Due To Extraordinary Market Volatility

The Exchange shall halt trading in all options whenever a marketwide trading halt (commonly known as a circuit breaker) is initiated on the New York Stock Exchange in response to extraordinary market conditions.

Rule 704. Collection and Dissemination of Quotations

(a) Each market maker shall communicate to the Exchange its bid and offers in accordance with the requirements of Rule 11Ac1-1 under the Exchange Act and the Rules of the Exchange.

(b) The Exchange will disseminate to quotation vendors the highest bid and the lowest offer, and the aggregate quotation size associated therewith that is available to Public Customer Orders, in accordance with the requirements of Rule 11Ac1-1 under the Exchange Act.

(c) *Unusual Market Conditions.*

(1) An Exchange official designated by the Board shall have the power to determine that the level of trading activities or the existence of unusual market conditions is such that the Exchange is incapable of collecting, processing, and making available to quotation vendors the data for the option in a manner that accurately reflects the current state of the market on the Exchange. Upon making such a determination, the Exchange shall designate the market in such option to be "fast." When a market for an option is declared fast, the Exchange will provide notice that its quotations are not firm by appending an appropriate indicator to its quotations.

(2) If a market is declared fast, designated Exchange officials shall have the power to: (i) direct that one or more trading rotations be employed pursuant to Rule 701; (ii) suspend the minimum size requirement of Rule 804(b); or (iii) take such other actions as are deemed in the interest of maintaining a fair and orderly market.

(3)The Exchange will monitor the activity or conditions that caused a fast market to be declared, and a designated Exchange official shall review the condition of such market at least every thirty (30) minutes. Regular trading procedures shall be resumed by the Exchange when a designated Exchange official determines that the conditions supporting a fast market declaration no longer exist. The Exchange will provide notice that its quotations are once again firm by removing the indicator from its quotations.

(4) If the conditions supporting a fast market declaration cannot be managed utilizing one or more of the procedures described above, then a designated Exchange official shall halt trading in the class or classes so affected.

[Adopted February 24, 2000; amended April 2, 2001 (SR-ISE-2001-07).]

Rule 705. Limitation of Liability

(a) The Exchange, its Directors, officers, committee members, employees, contractors or agents shall not be liable to Members nor any persons associated with Members for any loss, expense, damages or claims arising out of the use of the facilities, systems or equipment afforded by the Exchange, nor any interruption in or failure or unavailability of any such facilities, systems or equipment, whether or not such loss, expense, damages or claims result or are alleged to result from negligence or other unintentional errors or omissions on the part of the Exchange, its Directors, officers, committee members, employees, contractors, agents or other persons acting on its behalf, or from systems failure, or from any other cause within or outside the control of the Exchange.

(b) The Exchange makes no warranty, express or implied, as to results to be obtained by any person or entity from the use of any data transmitted or disseminated by or on behalf of the Exchange or any reporting authority designated by the Exchange, including but not limited to, reports of transactions in or quotations for securities traded on the Exchange or underlying securities, or reports of interest rate measures or index values or related data, and the Exchange makes no express or implied warranties of merchantability or fitness for a particular purpose or use with respect to any such data.

(c) No Member or person associated with a Member shall institute a lawsuit or other legal proceeding against the Exchange or any Director, officer, employee, contractor, agent or other official of the Exchange or any subsidiary of the Exchange, for actions taken or omitted to be taken in connection with the official business of the Exchange or any subsidiary, except to the extent such actions or omissions constitution violations of the federal securities laws for which a private right of action exists. This provision shall not apply to appeals of disciplinary actions or other actions by the Exchange as provided for in the Rules.

Rule 706. Access to and Conduct on the Exchange

(a) *Access to Exchange.* Unless otherwise provided in the Rules, no one but a Member or a person associated with a Member shall effect any Exchange Transactions.

(b) *Exchange Conduct.* Members and persons employed by or associated with any Member, while using the facilities of the Exchange, shall not engage in conduct (i) inconsistent with the maintenance of a fair and orderly market; (ii) apt to impair public confidence in the operations of the Exchange; or (iii) inconsistent with the ordinary and efficient conduct of business. Activities that may violate the provisions of this paragraph (b) include, but are not limited to, the following:

(1) failure of a market maker to provide quotations in accordance with Rule 804;

(2) failure of a market maker to bid or offer within the ranges specified by Rule 803(b)(4);

(3) failure of a Member to supervise a person employed by or associated with such Member adequately to ensure that person's compliance with this paragraph (b);

(4) failure to abide by a determination of the Exchange;

(5) refusal to provide information requested by the Exchange; and

(6) failure to abide by the provisions of Rule 717.

Rule 707. Clearing Member Give Up

A Member must give up the name of the Clearing Member through whom the transaction will be cleared. If there is a subsequent change in identity of the Clearing Member through whom a transaction will be cleared, the Member must, as promptly as possible, report such change to the Exchange.

Rule 708. Units of Trading

The unit of trading in each series of options traded on the Exchange shall be the unit of trading established for that series by the Clearing Corporation pursuant to the rules of the Clearing Corporation and the agreements of the Exchange with the Clearing Corporation.

Rule 709. Meaning of Premium Quotes and Orders

(a) *General.* Except as provided in paragraph (b), orders and quotations shall be expressed in terms of dollars per unit of the underlying security. For example, a bid of "5" shall represent a bid of $500 for an options contract having a unit of trading consisting of 100 shares of an underlying security, or a bid of $550 for an options contract having a unit of trading consisting of 110 shares of an underlying security.

(b) *Special Cases.* Orders and quotations for an options contract for which the Exchange has established an adjusted unit of trading in accordance with Rule 708 shall be expressed in terms of dollars per 1/100 part of the total securities and/or other property constituting such adjusted unit of trading. For example, an offer of "3" shall represent an offer of $300 for an options contract having a unit of trading consisting of 100 shares of an underlying security plus ten (10) rights.

Rule 710. Minimum Trading Increments

(a) The Board may establish minimum trading increments for options traded on the Exchange. Such changes by the Board will be designated as a stated policy, practice, or interpretation with respect to the administration of this Rule 710 within the meaning of subparagraph (3)(A) of Section 19(b) of the Exchange Act and will be filed with the SEC as a rule change for effectiveness upon filing. Until such time as the Board makes a change in the increments, the following principles shall apply:

(1) if the options contract is trading at less than $3.00 per option, $.05; and

(2) if the options contract is trading at $3.00 per option or higher, $.10.

(b) Minimum trading increments for dealings in options contracts other than those specified in paragraph (a) may be fixed by the Exchange from time to time for options contracts of a particular series.

(c) Notwithstanding the above, the Exchange may trade in the minimum variation of the primary market in the underlying security.

[Adopted February 24, 2000; amended August 3, 2000 (SR-ISE-2000-07); amended May 24, 2001 (SR-ISE-2001-14).]

Rule 711. Acceptance of Quotes and Orders

All bids or offers made and accepted on the Exchange in accordance with the Rules shall constitute binding contracts, subject to applicable requirements of the Constitution and the Rules and the rules of the Clearing Corporation.

Rule 712. Submission of Orders and Clearance of Transactions

(a) *Order Identification*. When entering orders on the Exchange, each Member shall submit trade information in such form as may be prescribed by the Exchange in order to allow the Exchange to properly prioritize and match orders and quotations pursuant to Rule 713 and report resulting transactions to the Clearing Corporation.

(b) All transactions made on the Exchange shall be submitted for clearance to the Clearing Corporation, and all such transactions shall be subject to the rules of the Clearing Corporation. Every Clearing Member shall be responsible for the clearance of the Exchange Transactions of such Clearing Member and of each Member who gives up such Clearing Member's name pursuant to a letter of authorization, letter of guarantee or other authorization given by such Clearing Member to such Member, which authorization must be submitted to the Exchange.

(c) On each business day at or prior to such time as may be prescribed by the Clearing Corporation, the Exchange shall furnish the Clearing Corporation a report of each Clearing Member's matched trades.

[Adopted February 24, 2000; amended December 27, 2000 (SR-ISE-2000-21).]

Rule 713. Priority of Quotes and Orders

(a) *Definitions*. As provided in Rule 100(a)(4) and (a)(21), a "bid" is a quotation or limit order to buy options contracts and an "offer" is a quotation or limit order to sell options contracts. "Quotations" are defined in Rule 100(a)(32), and may only be entered on the Exchange by market makers in the options classes to which they are appointed under Rule 802. Limit orders may be entered by market makers in certain circumstances as provided in the Rules and Electronic Access Members (either as agent or as principal). "Non-Customer Orders" are defined in Rule 100(a)(20) and include, among others, limit orders for the account of Electronic Access Members and market makers on the Exchange.

(b) *Priority on the Exchange.* The highest bid and lowest offer shall have priority on the Exchange.

(1) In the case where the lowest offer for any options contract is $.05, no Member shall enter a market order to sell that series.

(2) Wherever this condition occurs, any such market order shall be considered a limit order to sell at a price of $.05.

(c) *Priority of Public Customer Orders*. Public Customer Orders on the Exchange shall have priority over Non-Customer Orders and market maker quotes at the same price in the same options series.

(d) *Precedence of Public Customer Orders*. If there are two (2) or more Public Customer Orders for the same options series at the same price on the Exchange, priority shall be afforded to such Public Customer Orders in the sequences in which they are received by the Exchange (*i.e.*, in time priority).

(e) *Precedence of Non-Customer Orders and Market Maker Quotes.* If there are two (2) or more Non-Customer Orders or market maker quotes at the Exchange's best bid or offer, after all Public Customer Orders (if any) at that price have been filled, executions at that price will be allocated between the Non-Customer Orders and market maker quotes pursuant to an allocation procedure to be determined by the Exchange from time to time; provided, however, that if the Primary Market Maker is quoting at the Exchange's best bid or offer, it shall have precedence over Non-Customer Orders and Competitive Market Maker quotes for execution of orders that are for a specified number of contracts or fewer, which number shall be determined by the Exchange from time to time.

(f) *Priority on Split Price Transactions*. If a Member purchases (sells) one (1) or more options contracts of a particular series at a particular price, it shall at the next lower (higher) price at which a Non-Customer is bidding (offering), have priority over such Non-Customers in purchasing (selling) up to the equivalent number of options contracts of the same series that it purchased (sold) at the higher (lower) price, but only if the purchase (sale) so effected represents the opposite side of a transaction with the same offer (bid) as the earlier purchase (sale).

Supplementary Material to Rule 713

.01 Rule 713(e) (Priority of Quotes and Orders) states that Public Customer Orders have priority on the Exchange. That rule further provides that the Exchange will determine a procedure for allocating executions among Non-Customer Orders and market maker quotes in cases where all Public Customer Orders have been executed and there are two or more Non-Customer Orders or market maker quotes at the best price. This procedure is as follows:

(a) Subject to the two limitations below, Non-Customer Orders and market maker quotes at the best price receive allocations based upon the percentage of the total number of contracts available at the best price that is represented by the size of the Non-Customer Order or quote;

(b) If the Primary Market Maker is quoting at the best price, it has participation rights equal to the greater of (i) the proportion of the total size at the best price represented by the size of its quote, or (ii) sixty percent (60%) of the contracts to be allocated if there is only one (1) other Non-Customer Order or market maker quotation at the best price, forty percent (40%) if there are two (2) other Non-Customer Orders and/or market maker quotes at the best price, and thirty percent (30%) if there are more than two (2) other Non-Customer Orders and/or market maker quotes at the best price; and

(c) Orders for five (5) contracts or fewer will be executed first by the Primary Market Maker; provided however, that on a quarterly basis the Exchange will evaluate what percentage of the volume executed on the Exchange (excluding volume resulting from the execution of orders in the Facilitation Mechanism (see Rule 716(d))) is comprised of orders for five (5) contracts or fewer executed by Primary Market Makers, and will reduce the size of the orders included in this provision if such percentage is over forty percent (40%).

This procedure only applies to the allocation of executions among Non-Customer Orders and market maker quotes existing in the Exchange's central order book at the time the order is received by the Exchange. No market participant is allocated any portion of an execution unless it has an existing interest at the execution price. Moreover, no market participant can execute a greater number of contracts than is associated with the price of its existing interest. Accordingly, the Primary Market Maker participation rights and the small order preference contained in this allocation procedure

are not guarantees; the Primary Market Maker (i) must be quoting at the execution price to receive an allocation of any size, and (ii) cannot execute a greater number of contracts than the size that is associated with its quote.

[Adopted February 24, 2000; amended May 22, 2000 (SR-ISE-2000-01); amended May 23, 2001 (SR-ISE-2001-16); amended May 24, 2001 (SR-ISE-2001-14); amended August 2, 2001 (SR-ISE-2001-17).]

Rule 714. Automatic Execution of Public Customer Orders

(a) Public Customer Orders to buy or sell options contracts on the Exchange will not be automatically executed by the System at prices inferior to the best bid or offer on another national securities exchange, as those best prices are identified in the System.

(b) Paragraph (a) shall not apply to fill-or-kill orders or in circumstances where a "fast market" in the options series has been declared on the Exchange, or where a "fast market" in the options series has been declared in other markets or where quotations in other markets are otherwise not firm.

Rule 715. Types of Orders

(a) *Market Orders.* A market order is an order to buy or sell a stated number of options contracts that is to be executed at the best price obtainable when the order reaches the Exchange.

(b) *Limit Orders*. A limit order is an order to buy or sell a stated number of options contracts at a specified price or better.

(1) *Marketable Limit Orders.* A marketable limit order is a limit order to buy (sell) at or above (below) the best offer (bid) on the Exchange.

(2) *Fill-or-Kill Orders.* A fill-or-kill order is a limit order that is to be executed in its entirety as soon as it is received and, if not so executed, treated as cancelled.

(3) *Immediate-or-Cancel Orders.* An immediate-or-cancel order is a limit order that is to be executed in whole or in part upon receipt. Any portion not so executed is to be treated as cancelled.

Rule 716. Block Trades

(a) *Block-Size Orders.* Block-size orders are orders for fifty (50) contracts or more.

(b) For purposes of this Rule, the term "Crowd Participants" means the market makers appointed to an options class under Rule 803, as well as other Members with proprietary orders at the inside bid or offer for a particular series.

(c) *Block Order Mechanism*. The Block Order Mechanism is a process by which a Member can obtain liquidity for the execution of block-size orders.

(1) Upon the entry of an order into the Block Order Mechanism, a broadcast message will be sent to the Crowd Participants, which will be given an opportunity to respond to the broadcast message (a "Response") with indications of the prices and sizes at which they would be willing to trade with a block-size order.

(2) At the conclusion of the time given Crowd Participants to enter Responses, either an execution will occur automatically, or the order will be cancelled.

(i) Bids (offers) on the Exchange at the time the block order is executed that are priced higher (lower) than the block execution price, as well as Responses that are priced higher (lower) than the block execution price, will be executed at the block execution price.

(ii) Responses, quotes and Non-Customer orders at the block execution price will participate in the execution of the block-size order according to Rule 713(e).

(iii) Notwithstanding Rule 714(a), Public Customer block-size orders executed through the Block Order Mechanism will be executed without consideration of any prices that might be available on other exchanges trading the same options contract.

(d) *Facilitation Mechanism.* The Facilitation Mechanism is a process by which an Electronic Access Member can facilitate block-size Public Customer Orders. Electronic Access Members must be willing to facilitate the entire size of orders entered into the Facilitation Mechanism.

(1) Upon the entry of an order into the Facilitation Mechanism, a broadcast message will be sent to the crowd Participants, which will be given an opportunity to indicate whether they want to participate in the facilitation of the Public Customer order at the facilitation price (an “Indication”).

(2) Indications may be priced at the price of the order to be facilitated or at a better price, so long as such better price is to buy (sell) at a price that is below (above) the ISE best bid (offer), and must not exceed the size of the order to be facilitated.

(3) Crowd Participants may indicate a willingness to facilitate an order at an improved price that is equal to or higher (lower) than the best bid (offer) on the Exchange by entering orders or changing their quotes, as applicable, but must do so at least ten (10) seconds prior to the expiration of the request for indications.

(4) At the end of the period given for the entry of Indications, the facilitation order will be automatically executed in full.

(i) Unless there is sufficient size to execute the entire facilitation order at a better price, Public Customer bids (offers) on the Exchange at the time the facilitation order is executed that are priced higher (lower) than the facilitation price will be executed at the facilitation price. Non-Customer bids (offers) on the Exchange at the time the facilitation order is executed that are priced higher (lower) than the facilitation price will be executed at their stated price, thereby providing the order being facilitated a better price for the number of contracts associated with such higher bids (lower offers).

(ii) The facilitating Electronic Access Member will execute at least forty percent (40%) of the original size of the facilitation order, but only after better-priced orders and quotes, as well as Public Customer Orders at the facilitation price are executed. Indications, quotes and Non-Customer Orders at the facilitation price will participate in the execution of the facilitation order based upon the percentage of the total number of contracts available at the best price that is represented by the size of the Non-Customer Order or quote.

Supplementary Material to Rule 716

.01 It will be a violation of a member's duty of best execution to its customer if it were to cancel a facilitation order to avoid execution of the order at a better price. The availability of the Facilitation Mechanism does not alter a member's best execution duty to get the best price for its customer. Accordingly, while facilitation orders can be canceled during the thirty seconds given for the entry of Indications, if a member were to cancel a facilitation order when there was a superior price available on the Exchange and subsequently re-enter the facilitation order at the same facilitation price after the better price was no longer available without attempting to obtain that better price for its customer, there would be a presumption that the member did so to avoid execution of its customer order in whole or in part by other brokers at the better price.

.02 The time given to Crowd Participants to enter Responses under paragraph (c)(1) and Indications under paragraph (d)(1) shall be thirty (30) seconds.

[Adopted February 24, 2000; amended May 22, 2000 (SR-ISE-2000-03); amended June 20, 2001 (SR-ISE-2001-03); amendment pending (SR-ISE-2001-19).]

Rule 717. Limitations on Orders

(a) Market Orders and Marketable Limit Orders.

Electronic Access Members shall not enter into the System, as principal or agent, Non-Customer market orders. Non-Customer limit orders that cross the market and that cannot be executed within two (2) minimum variations below the

best bid or above the best offer cannot be executed on the Exchange. Such limit orders will be canceled by the System.

(b) Limit Orders.

Electronic Access Members shall not enter into the System, as principal or agent, limit orders in the same options series, for the account or accounts of the same or related beneficial owners, in such a manner that the Electronic Access Member or the beneficial owner(s) effectively is operating as a market maker by holding itself out as willing to buy and sell such options contract on a regular or continuous basis. In determining whether an Electronic Access Member or beneficial owner effectively is operating as a market maker, the Exchange will consider, among other things: the simultaneous or near-simultaneous entry of limit orders to buy and sell the same options contract; the multiple acquisition and liquidation of positions in the same options series during the same day; and the entry of multiple limit orders at different prices in the same options series.

(c) Order Size.

(1) Electronic Access Members are prohibited from entering into the System, as principal or agent, multiple orders for a single trading interest if one or more orders is for fewer than ten (10) contracts.

(2) Non-Customer Orders for fewer than ten (10) contracts will be rejected or cancelled automatically if such orders would cause the size of the Exchange's best bid or offer to be fewer than ten (10) contracts.

(d) Principal Transactions.

Electronic Access Members may not execute as principal orders they represent as agent unless (i) agency orders are first exposed on the Exchange for at least thirty (30) seconds, (ii) the Electronic Access Member has been bidding or offering on the Exchange for at least thirty (30) seconds prior to receiving an agency order that is executable against such bid or offer, or (iii) the Member utilizes the Facilitation Mechanism pursuant to Rule 716(d).

(e) Solicitation Orders.

Electronic Access Members must expose orders they represent as agent on the Exchange for at least thirty (30) seconds before such orders may be executed in whole or in part by orders solicited from Members and non-member broker-dealers to transact with such orders.

(f) Electronic Orders.

Members may not enter, nor permit the entry of, orders created and communicated electronically without manual input (*i.e.*, order entry by Public Customers or associated persons of Members must involve manual input such as entering the

terms of an order into an order-entry screen or manually selecting a displayed order against which an off-setting order should be sent), unless such orders are non-marketable limit orders to buy (sell) that are priced higher (lower) than the best bid (offer) on the Exchange (i.e., limit orders that improve the best price available on the Exchange). Nothing in this paragraph, however, prohibits Electronic Access Members from electronically communicating to the Exchange orders manually entered by customers into front-end communications systems (*e.g.*, Internet gateways, online networks, etc.).

(g) Orders for the Account of Another Member.

Absent an exemption from an Exchange official designated by the Board, Electronic Access Members shall not cause the entry of orders for the account of an ISE market maker that is exempt from the provisions of Regulation T of the Board of Governors of the Federal Reserve System pursuant to Section 7(c)(2) of the Exchange Act.

(h) Multiple Orders for the Same Beneficial Account.

Members shall not cause the entry of more than one order every fifteen (15) seconds for the account of the same beneficial owner in options on the same underlying security; provided, however that this shall not apply to multiple orders in different series of options on the same underlying security if such orders are part of a spread.

Supplemental Material to Rule 717

.01 Rule 717(d) prevents an Electronic Access Member from executing agency orders to increase its economic gain from trading against the order without first giving other trading interest on the Exchange an opportunity to either trade with the agency order or to trade at the execution price when the member was already bidding or offering on the book. However, the Exchange recognizes that it may be possible for an Electronic Access Member to establish a relationship with a customer or other person to deny agency orders the opportunity to interact on the Exchange and to realize similar economic benefits as it would achieve by executing agency orders as principal. It will be a violation of Rule 717(d) for an Electronic Access Member to be a party to any arrangement designed to circumvent Rule 717(d) by providing an opportunity for a customer to regularly execute against agency orders handled by the Electronic Access Member immediately upon their entry into the System.

.02 It will be a violation of Rule 717(e) for an Electronic Access Member to cause the execution of an order it represents as agent on the Exchange by orders it solicited from Members and non-member broker-dealers to transact with such orders, whether such solicited orders are entered into the System directly by the Electronic Access Member or by the solicited party (either directly or through another Member), if the Member fails to expose orders on the Exchange as required by Rule 717(e).

[Adopted February 24, 2000; amended May 25, 2000 (SR-ISE-2000-04); amended February 28, 2001 (SR-ISE-2000-20).]

Rule 718. Accommodation Liquidations (Cabinet Trades)

Cabinet trading under the following terms and conditions shall be available in each series of options contracts open for trading on the Exchange:

(a) Trading shall be conducted in accordance with other Exchange Rules except as otherwise provided herein.

(b) Limit orders valued at a price of $1 per options contract must be placed on the Exchange using the Cabinet Trading Mechanism.

(c) Opening transactions at a value of $1 per options contact may be placed on the Exchange using the Cabinet Trading Mechanism only to the extent that the order book in Cabinet Trades contains unexecuted contract closing orders with which the opening orders immediately may be matched.

(d) Orders in Cabinet Trades may be placed for Public Customer accounts, with priority based upon the sequence in which such orders are placed on the Exchange.

(e) Primary Market Makers shall not be subject to the requirements of Rule 803 for orders placed pursuant to this Rule.

Rule 719. Transaction Price Binding

The price at which an order is executed shall be binding notwithstanding that an erroneous report in respect thereto may have been rendered, or no report rendered. A report shall not be binding if an order was not actually executed but was reported to have been executed in error.

Rule 720. Obvious Errors

The Exchange shall either bust a transaction or adjust the execution price of a transaction that results from an Obvious Error as provided in this Rule.

(a) *Definition of Obvious Error.* For purposes of this Rule only, an Obvious Error will be deemed to have occurred when:

(1) during regular market conditions (including rotations), the execution price of a transaction is higher or lower than the Theoretical Price for the series by an amount equal to at least two (2) times the maximum bid/ask spread allowed for the option, so long as such amount is 50 cents or more; or

(2) during fast market conditions (i.e., the Exchange has declared a fast market status for the option in question), the execution price of a

transaction is higher or lower than the Theoretical Price for the series by an amount equal to at least three (3) times the maximum bid/ask spread allowed for the option, so long as such amount is 50 cents or more.

(b) *Definition of Theoretical Price.* For purposes of this Rule only, the Theoretical Price of an option is:

(1) if the series is traded on at least one other options exchange, the last bid or offer, just prior to the trade, found on the exchange that has the most liquidity in that option as provided in Supplementary Material .02 below; or

(2) if there are no quotes for comparison purposes, as determined by designated personnel in the Exchange's market control center ("Market Control").

(c) *Adjustments.* Where the execution price of a transaction executed as the result of an Obvious Error is adjusted, the adjusted price will be:

(1) the Theoretical Price of the option in the case where the erroneous price is displayed in the market and subsequently executed by quotes or orders that did not exist in the System at the time the erroneous price was entered; or

(2) the last bid or offer, just prior to the trade, found on the exchange that has the most liquidity in that option as provided in Supplementary Material .03 below in the case where an erroneous price executes against quotes or orders already existing in the System at the time the erroneous price was entered.

(d) *Obvious Error Procedure.* Market Control shall administer the application of this Rule as follows.

(1) Notification. If a market maker on the Exchange believes that it participated in a transaction that was the result of an Obvious Error, it must notify Market Control within five (5) minutes of the execution. If an Electronic Access Member believes an order it executed on the Exchange was the result of an Obvious Error, it must notify Market Control within twenty (20) minutes of the execution. Absent unusual circumstances, Market Control will not grant relief under this Rule unless notification is made within the prescribed time periods.

(2) Adjust or Bust. Market Control will determine whether there was an Obvious Error as defined above. If it is determined that an Obvious Error has occurred, Market Control shall take one of the following actions: (i) where each party to the transaction is a market maker on the Exchange, the execution price of the transaction will be adjusted unless both parties agree to bust the trade within ten (10) minutes of being notified by Market Control of the Obvious Error; or (ii) where at least one party to the Obvious Error is not a market maker on the

Exchange, the trade will be busted unless both parties agree to adjust the price of the transaction within thirty (30) minutes of being notified by Market Control of the Obvious Error. Upon taking final action, Market Control shall promptly notify both parties to the trade.

(e) *Obvious Error Panel*.

(1) Composition. An Obvious Error Panel will be comprised of representatives from four (4) Members. Two (2) of the representatives must be directly engaged in market making activity and two (2) of the representatives must be employed by an Electronic Access Member.

(2) Request for Review. If a party affected by a determination made under this Rule so requests within the time permitted below, the Obvious Error Panel will review decisions made by Market Control under this Rule, including whether an Obvious Error occurred, whether the correct Theoretical Price was used, and whether an adjustment was made at the correct price. A party may also request that the Obvious Error Panel provide relief under this Rule in cases where the party failed to provide the notification required in paragraph (d)(1) and Market Control declined to grant an extension, but unusual circumstances must merit special consideration. A request for review must be made in writing within thirty (30) minutes after a party receives verbal notification of a final determination by Market Control under this Rule, except that if notification is made after 3:30 p.m. Eastern Time, either party has until 9:30 a.m. Eastern Time the next trading day to request review. The Obvious Error Panel shall review the facts and render a decision on the day of the transaction, or the next trade day in the case where a request is properly made after 3:30 on the day of the transaction or where the request is properly made the next trade day.

(3) Panel Decision. The Obvious Error Panel may overturn or modify an action taken by Market Control under this Rule upon agreement by a majority of the Panel representatives. All determinations by the Obvious Error Panel shall constitute final Exchange action on the matter at issue.

Supplementary Material to Rule 720

.01 For purposes of paragraph (a) of this Rule, the maximum bid/ask spread shall be the maximum bid/ask spread allowed under Rule 803(b), unless a wider spread has been allowed by the Exchange for the option because of unusual market conditions, such as high market volatility.

.02 The Theoretical Price will be determined under paragraph (b)(1) above as follows: (i) the bid price from the exchange providing the most volume will be used with respect to an erroneous bid price entered on the Exchange, and (ii) the offer price from the exchange providing the most volume will be used with respect to an erroneous offer price entered on the Exchange.

.03 The price to which a transaction is adjusted under paragraph (c)(2) above will be as follows: (i) the bid price from the exchange providing the most volume for the option will be used with respect to an erroneous offer price entered on the Exchange, and (ii) the offer price from the exchange providing the most volume for the option will be used with respect to an erroneous bid price entered on the Exchange. If there are no quotes for comparison purposes, the adjustment price will be determined by Market Control.

.04 When Market Control determines that an Obvious Error has occurred and action is warranted under paragraph (d)(2) above, the identity of the parties to the trade will be disclosed to each other in order to encourage conflict resolution.

.05 To qualify as a representative of an Electronic Access Member on an Obvious Error Panel, a person must (i) be employed by a Member whose revenues from options market making activity do not exceed ten percent (10%) of its total revenues; or (ii) have as his or her primary responsibility the handling of Public Customer orders or supervisory responsibility over persons with such responsibility, and not have any responsibilities with respect to market making activities.

.06 The Exchange shall designate at least ten (10) market maker representatives and at least ten (10) Electronic Access representatives to be called upon to serve on Obvious Error Panels as needed. In no case shall an Obvious Error Panel include a person related to a party to the trade in question. To the extent reasonably possible, the Exchange shall call upon the designated representatives to participate on an Obvious Error Panel on an equally frequent basis.

.07 All determinations made by the Exchange, Market Control or an Obvious Error Panel under this Rule shall be rendered without prejudice as to the rights of the parties to the transaction to submit a dispute to arbitration.

[Adopted June 1, 2001 (SR-ISE-2000-19).]

Rule 721. Pilot Program for Away Market Maker Access

(a) *Definitions.* Solely for the purpose of this Rule:

(1) "Corresponding Rule" means a rule of a Participating Exchange that is substantially identical to this Rule 721.

(2) "Customer Size" means the lesser of (i) the number of option contracts that the Participating Exchange sending the order guarantees it will automatically execute at its disseminated quotation in an Eligible Option Class for Public Customer Orders and (ii) the number of option contracts that the Participating Exchange receiving the order guarantees it will automatically execute at its disseminated quotation in an Eligible Option Class for Public

Customer Orders. This number shall be no fewer than 10.

(3) "Eligible Away Market Maker" ("EAMM") means, with respect to an Eligible Option Class, a market maker, as that term is defined in Section 3(a)(22) of the Exchange Act, on a Participating Exchange that:

(i) is assigned to, and is providing two-sided quotations in the Eligible Option Class; and

(ii) that is participating in its market's automatic execution system in such Eligible Option Class.

(4) "Eligible Away Principal Market Maker" ("EAPMM") means: with respect to the American Stock Exchange and the Philadelphia Stock Exchange, a Specialist in an Eligible Option Class; with respect to the Chicago Board Options Exchange, a Designated Primary Market Maker in an Eligible Option Class; and with respect to the Pacific Exchange, a Lead Market Maker in an Eligible Option Class.

(5) "Eligible Option Class" means all option series overlying a security, including both put and call options, which class is traded by the Exchange and at least one other Participating Exchange, to the extent that such Participating Exchanges have mutually agreed to include the option class in the Pilot Program.

(6) "Eligible Order" means an order for the account of a market maker, an EAMM or an EAPMM that can be sent to a Participating Exchange marked as a Public Customer Order pursuant to provisions of paragraphs (b), (c), and (d) of this Rule.

(7) "Participating Exchange" means (i) the Exchange and (ii) one or more of the American Stock Exchange, the Chicago Board Options Exchange, the Pacific Exchange, and the Philadelphia Stock Exchange, as the President of the Exchange, or his designee, has designated from time to time as having adopted a Corresponding Rule.

(8) "Pilot Program" means the program established by this Rule and the Corresponding Rules of the other Participating Exchanges.

(9) "Principal Size" means the number of option contracts that two or more Participating Exchanges mutually agree that they will automatically execute during the Pilot Program at their disseminated quotation for orders sent for the principal account of a market maker, an EAMM or an EAPMM that does not correspond to a Underlying Customer Order. This number shall be no fewer than 10.

(10) "Underlying Customer Order" means an unexecuted Public Customer Order for which a Primary Market Maker or EAPMM is acting as agent

and which underlies an Eligible Order.

(b) *Access to Other Participating Exchanges by Market Makers*. Pursuant to the Pilot Program, a market maker participating in the program may send an order to another Participating Exchange for execution as a Public Customer Order only if the market maker complies with the following conditions:

(1) the order is an immediate-or-cancel order;

(2) the price of the order is equal to the bid (offer) disseminated by the Participating Exchange at the time the market maker sends an order to sell (buy), and such bid (offer) is equal to the national highest bid (offer) in that series of an Eligible Option Class, as calculated by the Exchange;

(3) the Exchange's bid (offer) at the time the market maker sends the order to sell (buy) is not then equal to the national highest bid (offer) in that series of an Eligible Option Class, as calculated by the Exchange;

(4) the order is no larger than the Principal Size; and

(5) except with respect to orders a Primary Market Maker is sending pursuant to paragraph (c), below, the market maker has not received an execution of another such order in the same series of an Eligible Option Class on the same Participating Exchange pursuant to the Pilot Program in the previous one minute period.

(c) *Additional Access to Other Participating Exchanges by Primary Market Makers.* In addition to the access to other Participating Exchanges provided in paragraph (b), above, a Primary Market Maker participating in the Pilot Program may send an order to another Participating Exchange for execution as a Public Customer if:

(1) the Primary Market Maker complies with subparagraphs (1) through (3) of paragraph (b), above;

(2) the order reflects the same terms as an Underlying Customer Order the Primary Market Maker is holding; and

(3) the order is no larger than the Customer Size.

(d) *Access to the Exchange by Eligible Market Makers on other Participating Exchanges.* Notwithstanding any other Rule of the Exchange, an Electronic Access Member may send to the Exchange for execution as a Public Customer Order an order for the account of an EAMM or an EAPMM that complies with the Corresponding Rule of the EAMM's or EAPMM's Participating Exchange.

(e) *Implementation of the Pilot Program.* The President, or his designee, may implement the Pilot Program, in whole or in part, with respect to specific Participating Exchanges, to the extent that any such Participating Exchange has agreed

to implement corresponding aspects of the Pilot Program. Primary Market Maker participation in the Pilot Program shall be voluntary.

[Adopted January 30, 2001 (SR-ISE-2000-15).]

Rule 722. Complex Orders

(a) *Complex Orders Defined.* A complex order is any order for the same account as defined below:

(1*) Spread Order*. A spread order is an order to buy a stated number of option contracts and to sell the same number of option contracts, of the same class of options.

(2) *Straddle Order*. A straddle order is an order to buy (sell) a number of call option contracts and the same number of put option contracts on the same underlying security which contracts have the same exercise price and expiration date (e.g., an order to buy two XYZ July 50 calls and to buy two XYZ July 50 puts).

(3) *Strangle Order*. A strangle order is an order to buy (sell) a number of call option contracts and the same number of put option contracts in the same underlying security, which contracts have the same expiration date (e.g., an order to buy two ABC June 40 calls and to buy two ABC June 35 puts).

(4) *Combination Order.* A combination order is an order involving a number of call option contracts and the same number of put option contracts in the same underlying security and representing the same number of shares at option.

(5) *Stock-Option Order*. A stock-option order is an order to buy or sell a stated number of units of an underlying stock or a security convertible into the underlying stock ("convertible security") coupled with either (i) the purchase or sale of option contract(s) on the opposite side of the market representing either the same number of units of the underlying stock or convertible security or the number of units of the underlying stock necessary to create a delta neutral position; or (ii) the purchase or sale of an equal number of put and call option contracts, each having the same exercise price, expiration date, and each representing the same number of units of stock, as and on the opposite side of the market from, the stock or convertible security portion of the order.

(6) *Ratio Order*. A spread, straddle or combination order may consist of a different number of contracts, so long as the number of contracts differs by a permissible ratio. For purposes of this paragraph, a permissible ratio of contracts is any of the following: one-to-one, one-to-two and two-to-three.

(7) *Butterfly Spread Order.* A butterfly spread order is an order involving three series of either put or call options all having the same underlying

security and time of expiration and, based on the same current underlying value, where the interval between the exercise price of each series is equal, which orders are structured as either (i) a "long butterfly spread" in which two short options in the same series offset by one long option with a higher exercise price and one long option with a lower exercise price or (ii) a "short butterfly spread" in which two long options in the same series are offset by one short option with a higher exercise price and one short option with a lower exercise price.

(8) *Box Spread Order.* A box spread order is an order involving (a) a long call option and a short put option with the same exercise price, coupled with (b) a long put option and a short call option with the same exercise price; all of which have the same underlying security and time of expiration.

(9) *Collar Order*. A collar order is an order involving the sale of a call option coupled with the purchase of a put option in equivalent units of the same underlying security having a lower exercise price than, and same expiration date as, the sold call option.

(b) *Applicability of Exchange Rules.* Except as otherwise provided in this Rule, complex orders shall be subject to all other Exchange Rules that pertain to orders generally.

(1) *Minimum Increments.* Bids and offers on complex orders may be expressed in any decimal price regardless of the minimum increments otherwise appropriate to the individual legs of the order. Complex orders expressed in net price increments that are not multiples of the minimum increment are not entitled to the same priority under subparagraph (b)(2) of this Rule as such orders expressed in increments that are multiples of the minimum increment.

(2) *Complex Order Priority*. Notwithstanding the provisions of Rule 713, a complex order, as defined in paragraph (a) of this Rule, may be executed at a total credit or debit price with one other member without giving priority to bids or offers established in the marketplace that are no better than the bids or offers comprising such total credit or debit; provided, however, that if any of the bids or offers established in the marketplace consist of a Public Customer limit order, the price of at least one leg of the complex order must trade at a price that is better than the corresponding bid or offer in the marketplace. Under the circumstances described above, the option leg of a stock-option order, as defined in subparagraph (a)(5)(i) of this Rule, has priority over bids and offers established in the marketplace by Non-Customer orders and market maker quotes that are no better than the price of the options leg, but not over such bids and offers established by Public Customer Orders. The option legs of a stock-option order as defined in subparagraph (a)(5)(ii), consisting of a combination order with stock, may be executed in accordance with the first sentence of this subparagraph (b)(2).

(3) *Execution of Orders.* Complex orders will be executed without consideration of any prices that might be available on other exchanges trading the same options contracts.

(4) *Types of Complex Orders.* Complex orders may be entered as fill-or-kill or immediate-or-cancel orders, as defined in Rule 715(b), or as all-or-none orders, which are resting limit orders to be executed in their entirety or not at all.

(5) *Limitations on Complex Orders.*

(i) For any complex order where one leg alone is at least fifty (50) contracts, a member may execute as principal up to forty percent (40%) of an order it represents as agent without complying with the thirty (30) second exposure requirement contained in Rule 717(d)(i) and (ii).

(ii) For any complex order where one leg alone is at least fifty (50) contracts, a member may execute up to forty percent (40%) of an order it represents as agent against an order solicited from a Member or non-member broker-dealer to transact with such order without complying with the thirty (30) second exposure requirement contained in Rule 717(e).

(iii) The restrictions on order entry contained in paragraphs (f) and (h) of Rule 717 shall not apply to complex orders.

Supplementary Material to Rule 722

.01 This Rule 722 will be in effect until October 18, 2002.

[Adopted October 18, 2001 (SR-ISE-2001-18).]

CHAPTER 8

Market Makers

Rule 800. Registration of Market Makers

(a) A market maker is an individual Member or Member Organization with Designated Trading Representatives registered pursuant to Rule 801. Market makers are registered with the Exchange for the purpose of making transactions as dealer-specialist in accordance with the provisions of this Chapter.

(b) To register as a Competitive or Primary Market Maker, a Member shall file an application in writing on such forms as the Exchange may prescribe. Applications shall be reviewed by the Exchange, which shall consider an applicant's market making ability and such other factors as the Exchange deems appropriate. After reviewing the application, the Exchange shall either approve or disapprove the applicant's registration as a Competitive or Primary Market Maker.

(c) The registration of any Member as a Competitive or Primary Market Maker may be suspended or terminated by the Exchange upon a determination that such Member has failed to properly perform as a market maker.

Rule 801. Designated Trading Representatives

(a) Market maker quotations and orders may be submitted to the Exchange's System only by Designated Trading Representatives ("DTRs"). A DTR is permitted to enter quotes and orders only for the account of the market maker with which he is associated.

(b) *Registration of Designated Trading Representatives.* The Exchange may, upon receiving an application in writing from a market maker on a form prescribed by the Exchange, approve a person as a DTR.

(1) DTRs may be:

(i) individual Members registered with the Exchange as market makers, or

(ii) officers, partners, employees or associated persons of Member Organizations that are registered with the Exchange as market makers.

(2) To be approved as a DTR, a person must demonstrate knowledge of the Rules of the Exchange by passing an examination conducted by the Exchange.

(3) The Exchange may require a market maker to provide additional information the Exchange considers necessary to establish whether a person should be approved.

(4) A person may be conditionally approved as a DTR subject to any conditions the Chief Regulatory Officer considers appropriate in the interests of maintaining a fair and orderly market.

(c) *Suspension or Withdrawal of Registration*.

(1) The Exchange may suspend or withdraw the registration previously given to a person to be a DTR if the Exchange determines that:

(i) the person has caused the market maker to fail to comply with the Rules of the Exchange;

(ii) the person is not properly performing the responsibilities of a DTR;

(iii) the person has failed to meet the conditions set forth under paragraph (b) above; or

(iv) the Exchange believes it is in the best interest of fair and orderly markets.

(2) If the Exchange suspends the registration of a person as a DTR, the market maker must not allow the person to submit quotes and orders into the Exchange's System.

(3) The registration of a DTR will be withdrawn upon the written request of the Member for which the DTR is registered. Such written request shall be submitted on the form prescribed by the Exchange.

Rule 802. Appointment of Market Makers

(a) The Board or a committee designated by the Board shall appoint market makers to one or more classes of options contracts traded on the Exchange. In making such appointments the Board or designated committee shall consider (i) the financial resources available to the market maker, (ii) the market maker's experience and expertise in market making or options trading, and (iii) the maintenance and enhancement of competition among market makers in each class of options contracts to which they are appointed.

(b) The Board or designated committee will allocate options classes into groupings ("Groups" of options) and will make appointments to those Groups rather than individual classes, except as provided in paragraph (f) below. Absent an exemption by the Exchange, an appointment of a market maker shall be limited to the

options classes trading in no more than one Group for each Membership held by the market maker.

(c) The Board or designated committee shall appoint one Primary Market Maker and at least two (2) Competitive Market Makers to each options class traded on the Exchange.

(d) No appointment of a market maker shall be without the market maker's consent to such appointment, provided that refusal to accept an appointment may be deemed sufficient cause for termination or suspension of a market maker's registration.

(e) The Board or designated committee may suspend or terminate any appointment of a market maker under this Rule and may make additional appointments or change the options classes included in a market maker's appointed Group whenever, in the Board's or designated committee's judgment, the interests of a fair and orderly market are best served by such action.

(f) The Exchange shall periodically conduct an evaluation of market makers to determine whether they have fulfilled performance standards relating to, among other things, quality of markets, competition among market makers, observance of ethical standards, and administrative factors. The Exchange may consider any relevant information, including but not limited to the results of a market maker evaluation questionnaire, trading data, a market maker's regulatory history and such other factors and data as may be pertinent in the circumstances. Failure by a market maker to meet minimum performance standards may result in, among other things: (1) suspension, termination or restriction of an appointment to one or more of the options classes within the market maker's appointed Group; (2) restriction of appointments to additional options classes in the market maker's appointed Group; or (3) suspension, termination, or restriction of the market makers registration.

Rule 803. Obligations of Market Makers

(a) *General*. Transactions of a market maker should constitute a course of dealings reasonably calculated to contribute to the maintenance of a fair and orderly market, and market makers should not make bids or offers or enter into transactions that are inconsistent with such a course of dealings. Ordinarily, market makers are expected to:

(1) Except in unusual market conditions, refrain from purchasing a call option or a put option at a price more than $0.25 below parity. In the case of calls, parity is measured by the bid in the underlying security, and in the case of puts, parity is measured by the offer in the underlying security.

(2) Not bid more than $1 lower or offer more than $1 higher than the last preceding transaction price for the particular options contract, plus or minus the aggregate change in the last sale price of the underlying security since the time of the last preceding transaction for the particular options contract. This provision applies from one day's close to the next day's opening and from one

transaction to the next in intra-day transactions. With respect to inter-day transaction this provision applies if the closing transaction occurred within one hour of the close and the opening transaction occurred within one hour after the opening. With respect to intra-day transactions, this provision applies to transactions occurring within one hour of one another.

(b) *Appointment*. With respect to each options class to which a market maker is appointed under Rule 802, the market maker has a continuous obligation to engage, to a reasonable degree under the existing circumstances, in dealings for his own account when there exists, or it is reasonably anticipated that there will exist, a lack of price continuity, a temporary disparity between the supply of and demand for a particular options contract, or a temporary distortion of the price relationships between options contracts of the same class. Without limiting the foregoing, a market maker is expected to perform the following activities in the course of maintaining a fair and orderly market:

(1) To compete with other market makers to improve the market in all series of options classes to which the market maker is appointed.

(2) To make markets that, absent changed market conditions, will be honored for the number of contracts entered into the Exchange's System in all series of options classes to which the market maker is appointed.

(3) To update market quotations in response to changed market conditions in all series of options classes to which the market maker is appointed.

(4) To price options contracts fairly by, among other things, bidding and offering so as to create differences of no more than $.25 between the bid and offer for each options contract for which the bid is less than $2, no more than $.40 where the bid is at least $2 but does not exceed $5, no more than $.50 where the bid is more than $5 but does not exceed $10, no more than $.80 where the bid is more than $10 but does not exceed $20, and no more than $1 where the bid is $20 or greater, provided that the Exchange may establish differences other than the above for one or more options series. The bid/offer differentials stated above shall not apply to in-the-money options series where the underlying securities market is wider than the differentials set forth above. For these series, the bid/ask differential may be as wide as the quotation on the primary market of the underlying security.

(c) *Primary Market Makers.* In addition to the obligations contained in this Rule for market makers generally, for options classes to which a market maker is the appointed Primary Market Maker, it shall have the responsibility to:

(1) Assure that each disseminated market quotation in each series of options is for a minimum of ten (10) contracts, or such other minimum number as the Exchange shall set from time to time. When the best bid (offer) on the Exchange represents one or more Public Customer Orders for less than a total of

ten (10) contracts at that price, the Primary Market Maker is obligated to buy (sell) at that price the number of contracts needed to make the disseminated quote firm for ten (10) contracts.

(2) Address Public Customer Orders that are not automatically executed because there is a displayed bid or offer on another exchange trading the same options contract that is better than the best bid or offer on the Exchange.

(3) Initiate trading in each series pursuant to Rule 701.

(d) *Classes of Options To Which Not Appointed.* With respect to classes of options to which a market maker is not appointed, it should not engage in transactions for an account in which it has an interest that are disproportionate in relation to, or in derogation of, the performance of his obligations as specified in paragraph (b) above with respect to those classes of options to which it is appointed. Market makers should not:

(1) Individually or as a group, intentionally or unintentionally, dominate the market in options contracts of a particular class, or

(2) Effect purchases or sales on the Exchange except in a reasonable and orderly manner.

[Adopted February 22, 2000; amended May 24, 2001(SR-ISE-2001-14).]

Rule 804. Market Maker Quotations

(a) *Options Classes.* A quotation only may be entered by a market maker, and only in the options classes to which the market maker is appointed under Rule 802.

(b) *Size Associated with Quotes.* A market maker's bid and offer for a series of options contracts shall be accompanied by the number of contracts at that price the market maker is willing to buy from or sell to (i) Public Customers (the "Public Customer Size") and (ii) Non-Customers (the "Non-Customer Size"). Unless the Exchange has declared a fast market pursuant to Rule 704, a market maker may not initially enter a bid or offer with a Public Customer of less than ten (10) contracts. Where the size associated with a market maker's bid or offer falls below ten (10) contracts due to executions at that price and consequently the size of the best bid or offer on the Exchange would be for less than ten (10) contracts, the market maker shall enter a new bid or offer for at least ten (10) contracts, either at the same or a different price. Every market maker bid or offer must have a Non-Customer Size of at least one (1) contract.

(c) *Two-Sided Quotes.* A market maker that enters a bid (offer) on the Exchange must enter an offer (bid) within the spread allowable under Rule 803(b)(4).

(d) *Firm Quotes.* (1) Market maker bids and offers are firm for Public Customer Orders and Non-Customer Orders both under this Rule and Rule 11Ac1-1 under the Exchange Act ("Rule 11Ac1-1") for the number of contracts specified for each according to the requirements of paragraph (b) above. Market maker bids and offers are not firm under this Rule and Rule 11Ac1-1 if:

(i) the Exchange determines that an exception is warranted, on a case by case basis, because of an obvious error;

(ii) a system malfunction or other circumstance impairs the Exchange's ability to disseminate or update market quotes in a timely and accurate manner;

(iii) the level of trading activities or the existence of unusual market conditions is such that the Exchange is incapable of collecting, processing, and making available to quotation vendors the data for the option in a manner that accurately reflects the current state of the market on the Exchange, and as a result, the market in the option is declared to be "fast" pursuant to Rule 704;

(iv) during trading rotations; or

(v) any of the circumstances provided in paragraph (c)(3) of Rule 11Ac1-1 exist.

(2) Within thirty seconds of receipt of a Public Customer Order (Non-Customer Order) to buy or sell an option in an amount greater than the Public Customer Size (Non-Customer Size), that portion of the order equal to the Public Customer Size (Non-Customer Size) will be executed and the bid or offer price will be revised.

(e) *Continuous Quotes*. A market maker must enter continuous quotations for the options classes to which it is appointed pursuant to the following:

(1) Primary Market Makers. Primary Market Makers must enter continuous quotations and enter into any resulting transactions in all of the series listed on the Exchange of the options classes to which he is appointed on a daily basis.

(2) Competitive Market Makers. (i) On any given day, a Competitive Market Maker must participate in the opening rotation and make markets and enter into any resulting transactions on a continuous basis in at least sixty percent (60%) of the options classes for the Group to which the Competitive Market Maker is appointed and all the series of such options classes listed on the Exchange.

(ii) Whenever a Competitive Market Maker enters a quote or order in an options class to which it is appointed, it must maintain

continuous quotations for all series within the same expiration month until the close of trading that day; provided, however, if such quote or order is entered in an options series during the month in which such series expires, the Competitive Market Maker must participate in the opening rotation and maintain continuous quotations for all series in that month each day through their expiration.

(iii) A Competitive Market Maker may be called upon by an Exchange official designated by the Board to submit a single quote or maintain continuous quotes in one or more of the series of an options class to which the Competitive Market Maker is appointed whenever, in the judgment of such official, it is necessary to do so in the interest of fair and orderly markets.

(f) *Temporary Withdrawal of Quotations by Primary Market Makers.* A Primary Market Maker may apply to the Exchange to withdraw temporarily from its Primary Market Maker status in an options class. The Primary Market Maker must base its request on demonstrated legal or regulatory requirements that necessitate its temporary withdrawal, or provide the Exchange an opinion of counsel certifying that such legal or regulatory basis exists. The Exchange will act promptly on such a request, and, if the request is granted, the Exchange will temporarily reassign the options class to another Primary Market Maker.

[Adopted February 24, 2000; amended April 2, 2001 (SR-ISE-2001-07).]

Rule 805. Market Maker Orders

(a) *Options Classes to Which Appointed*. Market makers may not place principal orders to buy or sell options in the options classes to which they are appointed under Rule 802, other than immediate-or-cancel orders, complex orders and block-size orders executed through the Block Order Mechanism pursuant to Rule 716(c). Competitive Market Makers shall comply with the provisions of Rule 804(e)(2)(ii) upon the entry of such orders if they were not previously quoting in the series.

(b) *Options Classes Other Than Those to Which Appointed*.

(1) A market maker may enter all order types permitted to be entered by non-customer participants under the Rules to buy or sell options in classes of options listed on the Exchange to which the market maker is not appointed under Rule 802, provided that:

(i) market maker orders are subject to the limitations contained in Rule 717(c) and (f) as those paragraphs apply to principal orders entered by Electronic Access Members;

(ii) the spread between a limit order to buy and a limit order to sell the same options contract complies with the parameters contained in Rule 803(b)(4); and

(iii) the market maker does not enter orders in options classes to which its Member Organization is otherwise appointed, either as a Competitive or Primary Market Maker.

(2) Competitive Market Makers. The total number of contracts executed during a quarter by a Competitive Market Maker in options classes to which it is not appointed may not exceed twenty-five percent (25%) of the total number of contracts traded per each Competitive Market Maker Membership.

(3) Primary Market Makers. The total number of contracts executed during a quarter by a Primary Market Maker in options classes to which it is not appointed may not exceed ten percent (10%) of the total number of contracts traded per each Primary Market Maker Membership.

(c) *Exemptive Authority.* Until the earlier of (1) one year from the date on which the Exchange commences operations or (2) the date on which the Exchange opens all options Groups for trading, an Exchange official designated by the Board may grant market makers exemptions from the requirements of subparagraphs (b)(2) and (3) of this rule, subject to the following:

(1) If a market maker has only one membership, and thus is assigned to only one Group, any exemption would end when the assigned Group is open for trading, regardless of the number of options classes that begin trading in the assigned Group;

(2) If a market maker has multiple memberships, and thus is assigned to trading in more than one Group, the exemption would end when all the market maker's Groups are open for trading, again regardless of the number of options classes that begin trading in the assigned Groups; as the market maker's assigned Groups open for trading, the amount of trading the market maker would be permitted to execute outside of its assigned Groups would be reduced;

(3) Any exemption would be conditioned on the member performing market maker functions in the classes they trade;

(4) An exemption could be revoked by the Exchange at any time if the market maker is not acting in accordance with the terms of the exemption; and

(5) No exemption would have a term of more than one month, but would be renewable on a monthly basis until the market maker's group(s) was open for trading.

[Adopted February 24, 2000; amended May 25, 2000 (SR-ISE-2000-05); amended June 20, 2001 (SR-ISE-2001-03); amended October 18, 2001 (SR-ISE-2001-18).]

Rule 806. Trade Reporting and Comparison

The details of each trade executed on the Exchange are automatically reported at the time of execution. Members need not separately report their transactions for trade comparison purposes.

Rule 807. Securities Accounts and Orders of Market Makers

(a) *Identification of Accounts*. In a manner prescribed by the Exchange, each market maker shall file with the Exchange and keep current a list identifying all accounts for stock, options and related securities trading in which the market maker may, directly or indirectly, engage in trading activities or over which it exercises investment direction. No market maker shall engage in stock, options or related securities trading in an account which has not been reported pursuant to this Rule.

(b) *Reports of Orders*. Each market maker shall, upon the request of the Exchange and in the prescribed form, report to the Exchange every order entered by the market maker for the purchase or sale of (i) a security underlying options traded on the Exchange, or (ii) a security convertible into or exchangeable for such underlying security, as well as opening and closing positions in all such securities held in each account reported pursuant to paragraph (a) of this Rule. The report pertaining to orders must include the terms of each order, identification of the brokerage firms through which the orders were entered, the times of entry or cancellation, the times report of execution were received and, if all or part of the order was executed, the quantity and execution price.

(c) *Joint Accounts*. No market maker shall, directly or indirectly, hold any interest or participate in any joint account for buying or selling any options contract unless each participant in such joint account is a Member or Member Organization and unless such account is reported to and not disapproved by the Exchange. Such reports in a form prescribed by the Exchange shall be filed with the Exchange before any transaction is effected on the Exchange for such joint account. A participant in a joint account must:

(1) Be either a market maker or a Clearing Member that carries the joint account.

(2) File and keep current a completed application on such form as is prescribed by the Exchange.

(3) Be jointly and severally responsible for assuring that the account complies with all the Rules of the Exchange.

(4) Not be a market maker appointed to the same options classes to which the joint account holder is also appointed as a market maker.

Rule 808. Letters of Guarantee

(a) *Required of Each Market Maker.* No market maker shall make any transactions on the Exchange unless a Letter of Guarantee has been issued for such Member by a Clearing Member and filed with the Exchange, and unless such Letter of Guarantee has not been revoked pursuant to paragraph (c) of this Rule.

(b) *Terms of Letter of Guarantee.* A Letter of Guarantee shall provide that the issuing Clearing Member accepts financial responsibilities for all Exchange Transactions made by the guaranteed Member.

(c) *Revocation of Letter of Guarantee.* A Letter of Guarantee filed with the Exchange shall remain in effect until a written notice of revocation has been filed with the Exchange. A revocation shall in no way relieve a Clearing Member of responsibility for transactions guaranteed prior to the effective date of such revocation.

Rule 809. Financial Requirements for Market Makers

(a) *Primary Market Makers.* Every Primary Market Maker shall maintain net liquidating equity of not less than $3,250,000 plus $25,000 excess equity for each underlying security upon which appointed options are open for trading in excess of the initial ten (10) underlying securities.

(b) *Competitive Market Makers*. Every Competitive Market Maker shall maintain net liquidating equity of not less than $1,000,000.

(c) Each market maker that makes an arrangement to finance his transactions as a market maker must identify to the Exchange the source of the financing and its terms. The Exchange must be informed immediately of the intention of any party to terminate or change any such arrangement.

Supplemental Material to Rule 809

.01 For purposes of Rule 809, the term "net liquidating equity" means the sum of positive cash balances and long securities positions less negative cash balances and short securities positions.

[Adopted February 24, 2000; amended August 22, 2001 (SR-ISE-2000-22).]

Rule 810. Limitations on Dealings

(d) *General Rule.* A market maker on the Exchange may engage in Other Business Activities, or it may be affiliated with a broker-dealer that engages in Other Business Activities, only if there is a Chinese Wall between the market making activities and the Other Business Activities. "Other Business Activities" mean:

(1) conducting an investment or banking or public securities business;

(2) making markets in the stocks underlying the options in which it makes markets; or

(3) functioning as an Electronic Access Member.

(e) *Chinese Wall.* For the purposes of this rule, a Chinese Wall is an organizational structure in which:

(1) The market making functions are conducted in a physical location separate from the locations in which the Other Business Activities are conducted, in a manner that effectively impedes the free flow of communications between DTRs and persons conducting the Other Business Activities. However, upon request and not on his own initiative, a DTR performing the function of a market maker may furnish to a person performing the function of an Electronic Access Member or other persons at the same firm or an affiliated firm ("affiliated persons"), the same sort of market information that the DTR would make available in the normal course of its market making activity to any other person. The DTR must provide such information to affiliated persons in the same manner that he would make such information available to a non-affiliated person.

(2) There are procedures implemented to prevent the use of material non-public corporate or market information in the possession of persons on one side of the wall from influencing the conduct of persons on the other side of the wall. These procedures, at a minimum, must provide that:

(i) the DTR performing the function of a market maker does not take advantage of knowledge of pending transactions, order flow information, corporate information or recommendations arising from the Other Business Activities; and

(ii) all information pertaining to the market maker's positions and trading activities is kept confidential and not made available to persons on the other side of the Chinese Wall.

(3) Persons on one side of the wall may not exercise influence or control over persons on the other side of the wall, provided that:

(i) the market making function and the Other Business Activities may be under common management as long as any general management oversight does not conflict with or compromise the market maker's responsibilities under the Rules of the Exchange; and

(ii) the same person or persons (the "Supervisor") may be responsible for the supervision of the market making and Electronic Access Member functions of the same firm or affiliated firms in order to monitor the overall risk exposure of the firm or affiliated firms. While the Supervisor may establish general trading parameters with respect to both

market making and other proprietary trading other than on an order-specific basis, the Supervisor may not:

(A) actually perform the function either of market maker or Electronic Access Member;

(B) provide to any person performing the function of an Electronic Access Member any information relating to market making activity beyond the information that a DTR performing the function of a Primary Market Maker may provide under subparagraph (b)(1), above; nor

(C) provide a DTR performing the function of market maker with specific information regarding the firm's pending transactions or order flow arising out of its Electronic Access Member activities.

(f) *Documenting and Reporting of Chinese Wall Procedures.* A Member implementing a Chinese Wall pursuant to this Rule shall submit to the Exchange a written statement setting forth:

(1) The manner in which it intends to satisfy the conditions in paragraph (b) of this Rule, and the compliance and audit procedures it proposes to implement to ensure that the Chinese Wall is maintained;

(2) The names and titles of the person or persons responsible for maintenance and surveillance of the procedures;

(3) A commitment to provide the Exchange with such information and reports as the Exchange may request relating to its transactions;

(4) A commitment to take appropriate remedial action against any person violating this Rule or the Member's internal compliance and audit procedures adopted pursuant to subparagraph (c)(1) of this Rule, and that it recognizes that the Exchange may take appropriate remedial action, including (without limitation) reallocation of securities in which it serves as a market maker, in the event of such a violation;

(5) Whether the Member or an affiliate intends to clear its proprietary trades and, if so, the procedures established to ensure that information with respect to such clearing activities will not be used to compromise the Member's Chinese Wall, which procedures, at a minimum, must be the same as those used by the Member or the affiliate to clear for unaffiliated third parties; and

(6) That it recognizes that any trading by a person while in possession of material, non-public information received as a result of the breach of the internal controls required under this Rule may be a violation of Rules 10b-5

and 14e-3 under the Exchange Act or one or more other provisions of the Exchange Act, the rules thereunder or the Rules of the Exchange, and that the Exchange intends to review carefully any such trading of which it becomes aware to determine whether a violation has occurred.

(g) *Exchange Approval of Chinese Wall Procedures.* The written statement required by paragraph (c) of this Rule must detail the internal controls that the Member will implement to satisfy each of the conditions stated in that Rule, and the compliance and audit procedures proposed to implement and ensure that the controls are maintained. If the Exchange determines that the organizational structure and the compliance and audit procedures proposed by the Member are acceptable under this Rule, the Exchange shall so inform the Member, in writing. Absent the Exchange finding a Member's Chinese Wall procedures acceptable, a market maker may not conduct Other Business Activities.

(h) *Clearing Arrangements.* Subparagraph (c)(5) permits a Member or an affiliate of the Member to clear the Member's market maker transactions if it establishes procedures to ensure that information with respect to such clearing activities will not be used to compromise the Chinese Wall. In this regard:

(1) The procedures must provide that any information pertaining to market maker securities positions and trading activities, and information derived from any clearing and margin financing arrangements, may be made available only to those employees (other than employees actually performing clearing and margin functions) specifically authorized under this Rule to have access to such information or to other employees in senior management positions who are involved in exercising general managerial oversight with respect to the market making activity.

(2) Any margin financing arrangements must be sufficiently flexible so as not to limit the ability of any market maker to meet market making or other obligations under the Exchange's Rules.

(f) *Exception to Chinese Wall Requirement.* A market maker shall be exempt from paragraph (a)(3) of this Rule to the extent the market maker complies with the following conditions:

(1) such member functions as an Electronic Access Member solely in options classes (i) contained in Groups to which the member is not appointed as a market maker pursuant to Rule 802 or (ii) in which the member is prohibited from acting as a market maker pursuant to regulatory requirements; and

(2) the member enters orders as an Electronic Access Member only for (i) the proprietary account of the member or (ii) the account of entities that are affiliated with the member.

[Adopted February 24, 2000; amended December 15, 2000 (SR-ISE-2000-09).]

CHAPTER 9

[Reserved for Flexible Options]

CHAPTER 10

Closing Transactions

Rule 1000. Contracts of Suspended Members

(a) When a Member, other than a Clearing Member, is suspended pursuant to Chapter 15 (Summary Suspension), all open short positions of the suspended Member in options contracts and all open positions resulting from exercise of options contracts, other than positions that are secured in full by a specific deposit or escrow deposit in accordance with the rules of the Clearing Corporation, shall be closed without unnecessary delay by all Member Organizations carrying such positions for the account of the suspended Member; provided that the Exchange may cause the foregoing requirement to be temporarily waived for such period as it may determine if it shall deem such temporary waiver to be in the interest of the public or the other Members of the Exchange.

(b) No temporary waiver hereunder by the Exchange shall relieve the suspended Member of its obligations or of damages, nor shall it waive the close out requirements of any other Rules.

(c) When a Clearing Member is suspended pursuant to Chapter 15 (Summary Suspension) of these Rules, the positions of such Clearing Member shall be closed out in accordance with the rules of the Clearing Corporation.

Rule 1001. Failure to Pay Premium

(a) When the Clearing Corporation shall reject an Exchange transaction because of the failure of the Clearing Member acting on behalf of the purchaser to pay the aggregate premiums due thereon as required by the Rules of the Clearing Corporation, the Member acting as or on behalf of the writer shall have the right either to cancel the transaction by giving notice thereof to the Clearing Member or to enter into a closing writing transaction in respect of the same options contract that was the subject of the rejected Exchange transaction for the account of the defaulting Clearing Member.

(b) Such action shall be taken as soon as possible, and in any event not later than 10:00 A.M. on the business day following the day the Exchange transaction was rejected by the Clearing Corporation.

CHAPTER 11

Exercises and Deliveries

Rule 1100. Exercise of Options Contracts

(a) Subject to the restrictions set forth in Rule 413 (Exercise Limits) and to such restrictions as may be imposed pursuant to Rule 417 (Other Restrictions on Options Transactions and Exercises) or pursuant to the Rules of the Clearing Corporation, an outstanding options contract may be exercised during the time period specified in the Rules of the Clearing Corporation by the tender to the Clearing Corporation of an exercise notice in accordance with the Rules of the Clearing Corporation. An exercise notice may be tendered to the Clearing Corporation only by the Clearing Member in whose account such options contract is carried with the Clearing Corporation.

(b) The exercise cutoff time for all noncash-settled options shall be 5:30 p.m. Eastern Time on the business day immediately prior to the expiration date. This is the latest time at which an exercise instruction for expiring noncash-settled options positions may be:

(1) prepared by a Clearing Member Organization for positions in its proprietary trading account;

(2) submitted to a Clearing Member Organization by a market maker or broker for positions in the market maker's account or the broker's error account; or

(3) accepted by a Member Organization from any customer for its positions in the customer's account.

(c) Notwithstanding the foregoing, Member Organizations may receive and Members may submit exercise instructions after the exercise cutoff time but prior to expiration in the circumstances listed below. A memorandum setting forth the circumstance giving rise to instructions after the exercise cutoff time shall be maintained by the Member Organization and a copy thereof shall be promptly filed with the Exchange. An exercise instruction after the exercise cutoff may be received or submitted:

(1) in order to remedy mistakes or errors made in good faith;

(2) where exceptional circumstances relating to a customer's or Member's ability to communicate exercise instructions to the Member Organization (or the Member Organization's ability to receive exercise instructions) prior to such cutoff time warrant such action.

(d) Submitting or preparing an exercise instruction after the exercise cutoff time in any expiring options on the basis of material information released after the cutoff time is activity inconsistent with just and equitable principles of trade.

(e) For purposes of this Rule with respect to any Member Organization, the word "customer" shall mean every person or organization other than a market maker, broker or the Member Organization itself. The term "exercise instruction," with respect to a market maker, broker and Clearing Member, shall also mean a notice either not to exercise an options position which would otherwise be exercised, or to exercise an options position which would otherwise not be exercised, by operation of the Rules of the Clearing Corporation, or to modify or withdraw a previously submitted instruction. All exercise instructions must be time stamped at the time they are prepared.

(f) No Member or Member Organization may prepare, time stamp or submit an exercise instruction prior to the purchase of the exercised contracts if the Member or Member Organization knew or had reason to know that the contracts had not yet been purchased.

(g) Clearing Members must follow the procedures of the Clearing Corporation when exercising expiring noncash-settled equity options contracts. Members must also follow the procedures set forth below with respect to the exercise of noncash-settled equity options contracts which would otherwise not be exercised, or the nonexercise of contracts which otherwise would be exercised, by operation of Clearing Corporation Rule 804:

(1) For all contracts so exercised or not exercised, a "contrary exercise advice," must be delivered by the market maker, broker or clearing firm, as applicable, in such form or manner prescribed by the Exchange no later than 5:30 p.m. Eastern Time.

(2) Subsequent to the delivery of a "contrary exercise advice," should the market maker, broker, customer or firm determine to act other than as reflected on the original advice form, the market maker, broker, or clearing firm, as applicable, must also deliver an "advice cancel," in such form or manner prescribed by the Exchange no later than 5:30 p.m. Eastern Time.

(3) Members shall properly communicate to the Exchange final exercise decisions in respect of positions for which they are responsible.

(4) The preparation, time stamping or submission of a "contrary exercise advise" prior to the purchase of the contracts to be exercised or not exercised shall be deemed a violation of this Rule.

(5) All of the above procedures of this paragraph (g) are in full force and effect whether or not the Clearing Corporation waives the exercise by exception provisions of its Rule 804; in the event of such waiver the procedures of this paragraph shall be followed as if such provisions of Clearing Corporation Rule 804 were in full force and effect. The Clearing Corporation rules may

require the submission of an affirmative exercise notice even in circumstances where a contrary exercise advise is not submitted;

(6) The failure of any Member to follow the procedures in this paragraph (g) may result in the assessment of a fine, which may include but is not limited to disgorgement of potential economic gain obtained or loss avoided by the subject exercise, as determined by the Exchange.

Rule 1101. Allocation of Exercise Notices

(a) Each Member Organization shall establish fixed procedures for the allocation of exercise notices assigned in respect of a short position in such Member Organization's customers' accounts. The allocation shall be on a "first in, first out," or automated random selection basis that has been approved by the Exchange, or on a manual random selection basis that has been specified by the Exchange. Each Member Organization shall inform its customers in writing of the method it uses to allocate exercise notices to its customers' account, explaining its manner of operation and the consequences of that system.

(b) Each Member Organization shall report its proposed method of allocation to the Exchange and obtain the Exchange's prior approval thereof, and no Member Organization shall change its method of allocation unless the change has been reported to and approved by the Exchange. The requirements of this paragraph shall not be applicable to allocation procedures submitted to and approved by another SRO having comparable standards pertaining to methods of allocation.

(c) Each Member Organization shall preserve for a three-year period sufficient work papers and other documentary materials relating to the allocation of exercise notices to establish the manner in which allocation of such exercise notices is in fact being accomplished.

Rule 1102. Delivery and Payment

(a) Delivery of the underlying security upon the exercise of an options contract, and payment of the aggregate exercise price in respect thereof, shall be in accordance with the Rules of the Clearing Corporation.

(b) As promptly as possible after the exercise of an options contract by a customer, the Member Organization shall require the customer to make full cash payment of the aggregate exercise price in the case of a call options contract, or to deposit the underlying security in the case of a put options contract, or to make the required margin deposit in respect thereof if the transaction is effected in a margin account, in accordance with the Rules of the Exchange and the applicable regulations of the Federal Reserve Board.

(c) As promptly as practicable after the assignment to a customer of an exercise notice the Member Organization shall require the customer to deposit the underlying security in the case of a call options contract if the underlying security is not

carried in the customer's account, or to make full cash payment of the aggregate exercise price in the case of a put options contract, or in either case to deposit the required margin in respect thereof if the transaction is effected in a margin account, in accordance with the Rules of the Exchange and the applicable regulations of the Federal Reserve Board.

CHAPTER 12

Margins

Rule 1200. General Rule

No Member may effect a transaction or carry an account for a customer, whether a Member or non-member of the Exchange, without proper and adequate margin in accordance with this Chapter 12 and Regulation T.

Rule 1201. Time Margin Must Be Obtained

The amount of margin required by this Chapter shall be obtained as promptly as possible and in any event within a reasonable time.

Rule 1202. Margin Requirements

(a) A Member Organization must elect to be bound by the initial and maintenance margin requirements of either the Chicago Board of Options Exchange or the New York Stock Exchange as the same may be in effect from time to time.

(b) Such election shall be made in writing by a notice filed with the Exchange.

(c) Upon the filing of such election, a Member Organization shall be bound to comply with the margin rules of the Chicago Board of Options Exchange or the New York Stock Exchange, as applicable, as though said rules were part of these Rules.

Rule 1203. Meeting Margin Calls by Liquidation Prohibited

(a) No Member Organization shall permit a customer to make a practice of effecting transactions requiring initial or additional margin or full cash payment and then furnishing such margin or making such full cash payment by liquidation of the same or other commitments.

(b) The provisions of this Rule shall not apply to any account maintained for another broker or dealer in which are carried only the commitments of customers of such other broker or dealer, exclusive of the partners, officers and directors of such other broker or dealer, provided such other broker or dealer is a Member Organization of the Exchange or has agreed in good faith with the Member Organization carrying the account that it will maintain a record equivalent to that referred to in Rule 1205.

Rule 1204. Margin Required Is Minimum

(a) The amount of margin prescribed by these Rules is the minimum which must be required initially and subsequently maintained with respect to each account

affected thereby; but nothing in these Rules shall be construed to prevent a Member Organization from requiring margin in an amount greater than that specified.

(b) The Exchange may at any time impose higher margin requirements with respect to such positions when it deems such higher margin requirements to be advisable.

CHAPTER 13

Net Capital Requirements

Rule 1300. Minimum Requirements

Each Member subject to Rule 15c3-1 under the Exchange Act shall comply with the capital requirements prescribed therein and with the additional requirements of this Chapter 13. Market makers must also comply with the minimum financial requirements contained in Rule 809.

Rule 1301. "Early Warning" Notification Requirements

Every Member subject to the reporting or notification requirements of Rule 17a-11 under the Exchange Act or the "early warning" reporting, business restriction or business reduction requirements of another national securities exchange, registered securities association or registered securities clearing organization shall promptly notify the Exchange in writing and shall thereafter file with the Exchange such reports and financial statements as may be required by the Exchange.

Rule 1302. Power of President to Impose Restrictions

Whenever it shall appear to the President of the Exchange that a Member Organization obligated to give notice to the Exchange under Rule 1301 is unable within a reasonable period to reduce the ratio of its aggregate indebtedness to net capital, or to increase its net capital, to a point where it is no longer subject to such notification obligations, or that such Member is engaging in any activity which casts doubt upon its continued compliance with the net capital requirements, the President may impose such conditions and restrictions upon the operations, business and expansion of such Member and may require the submission of, and adherence to, such plan or program for the correction of such situation as he determines to be necessary or appropriate for the protection of investors, other Members and the Exchange.

CHAPTER 14

Records, Reports and Audits

Rule 1400. Maintenance, Retention and Furnishing of Books, Records and Other Information

(a) Each Member shall make, keep current and preserve such books and records as the Exchange may prescribe and as may be prescribed by the Exchange Act and the rules and regulations thereunder.

(b) No Member shall refuse to make available to the Exchange such books, records or other information as may be called for under the Rules of the Exchange or as may be requested in connection with an investigation by the Exchange.

Rule 1401. Reports of Uncovered Short Positions

(a) Upon request of the Exchange, each Member shall submit a report of the total uncovered short positions in each options contract of a class dealt in on the Exchange showing (i) positions carried by such Member for its own account and (ii) positions carried by such Member for the accounts of customers; provided that the Members shall not report positions carried for the accounts of other Members where such other Members report the positions themselves.

(b) Such report shall be submitted not later than the second business day following the date the request is made.

Rule 1402. Financial Reports

Each Member shall submit to the Exchange answers to financial questionnaires, reports of income and expenses and additional financial information in the type, form, manner and time prescribed by the Exchange.

Rule 1403. Audits

(a) Each Member Organization approved to do business with the public in accordance with Chapter 6 of the Rules and each registered market maker shall file a report of its financial condition as of the date, within each calendar year, prepared in accordance with the requirements of Rule 17a-5 and Form X-17A-5 under the Exchange Act and containing the information called for by that form.

(1) The report of each Member approved to do business with the public shall be certified by an independent public accountant, and on or before January 10 of each year, each such Member shall notify the Exchange of the name of the independent public accountant appointed for that year and the date as of which the report will be made.

(2) Such report of financial condition, together with answers to an Exchange financial questionnaire based upon the report, shall be filed with the Exchange no later than sixty (60) days after the date as of which the financial condition of the Member is reported, or such other period as the Exchange may individually require.

(b) A Member may file, in lieu of the report required in paragraph (a) of this Rule, a copy of any financial statement which it is or has been required to file with any other national securities exchange or national securities association of which he is a member, or with any agency of any State as a condition of doing business in securities therein, and which is acceptable to the Exchange as containing substantially the same information as Form X-17A-5.

(c) In addition to the annual report required of certain Members pursuant to paragraph (a) of this Rule, the Exchange may require any Member to cause an audit of its financial condition to be made by an independent public accountant in accordance with the audit requirements of Form X-17A-5 as of the date of an answer to a financial questionnaire, and to file a statement to the effect that such audit has been made and whether it is in accord with the answers to the questionnaire.

(1) Such statement shall be signed by two general partners in the case of a Member Organization, by two executive officers in the case of a Member corporation or by an individual Member and it shall be attested to by the independent public accountant who certified the audit.

(2) The original report of the audit signed by the independent public accountant shall be retained as part of the books and records of the Member.

Rule 1404. Automated Submission of Trade Data

A Member or Member Organization shall submit requested trade data elements, in such automated format as may be prescribed by the Exchange from time to time, in regard to a transaction(s) that is the subject of the particular request for information.

(a) If the transaction was a proprietary transaction effected or caused to be effected by the Member or Member Organization for any account in which such Member or Member Organization, or any approved person, partner, officer, director, or employee thereof, is directly or indirectly interested, the Member shall submit or cause to be submitted, any or all of the following information as requested by the Exchange:

(1) Clearing house number or alpha symbol as used by the Member or the Member Organization submitting the data;

(2) Clearing house number(s) or alpha symbol(s) as may be used from time to time, of the Member(s) or Member Organization(s) on the opposite side of the transaction;

(3) Identifying symbol assigned to the security and where applicable for the options month and series symbols;

(4) Date transaction was executed;

(5) Number of option contracts for each specific transaction and whether each transaction was an opening or closing purchase or sale, as well as:

(i) the number of shares traded or held by accounts for which options data is submitted;

(ii) where applicable, the number of shares for each specific transaction and whether each transaction was a purchase, sale or short sale;

(6) Transaction price;

(7) Account number; and

(8) Market center where transaction was executed.

(b) If the transaction was effected or caused to be effected by the Member Organization for any customer account, such Member Organization shall submit or cause to be submitted any or all the following information as requested by the Exchange:

(1) Data elements (1) through (8) of paragraph (a) above;

(2) Customer name, address(es), branch office number, Representative number, whether the order was discretionary, solicited or unsolicited, date the account was opened and employer name and tax identification number(s); and

(3) If the transaction was effected for a Member broker-dealer customer, whether the broker-dealer was acting as a principal or agent on the transaction or transactions that are the subject of the Exchange's request.

(c) In addition to the above trade data elements, a Member or Member Organization shall submit such other information in such automated format as may be prescribed by the Exchange, as may from time to time be required.

(d) The Exchange may grant exceptions, in such cases and for such time periods as it deems appropriate, from the requirement that the data elements prescribed in paragraphs (a) and (b) above be submitted to the Exchange in an automated format.

Rule 1405. Risk Analysis of Market Maker Accounts

(a) Each Clearing Member that clears or guarantees the transactions of market makers pursuant to Rule 808, shall establish and maintain written procedures for assessing and monitoring the potential risks to the Member Organization's capital over a specified range of possible market movements of positions maintained in such market maker accounts and such related accounts as the Exchange shall from time to time direct.

(1) Current procedures shall be filed and maintained with the Exchange.

(2) The procedures shall specify the computations to be made, the frequency of computations, the records to be reviewed and maintained and the position(s) within the organization responsible for the risk management.

(b) Each affected Member shall at a minimum assess and monitor its potential risk of loss from options market maker accounts each business day as of the close of business the prior day through use of an Exchange-approved computerized risk analysis program, which shall comply with at least the minimum standards specified below and such other standards as from time to time may be prescribed by the Exchange:

(1) The estimated loss to the Clearing Member for each market maker account (potential account deficit) shall be determined given the impact of broad market movements in reasonable intervals over a range from negative fifteen percent (15%) to positive fifteen percent (15%).

(2) The Member shall calculate volatility using a method approved by the Exchange, with volatility updated at least weekly. The program must have the capability of expanding volatility when projecting losses throughout the range of broad market movements.

(3) Options prices shall be estimated through use of recognized options pricing models such as, but not limited to, Black-Scholes and Cox-Reubenstein.

(4) At a minimum, written reports shall be generated which describe for each market scenario:

(i) projected loss per options class by account;

(ii) projected total loss per options class for all accounts; and

(iii) projected deficits per account and in aggregate.

(c) Upon direction by the Exchange, each affected Member Organization shall provide to the Exchange such information as it may reasonably require with respect to the Member Organization's risk analysis for any or all of its market maker accounts.

Rule 1406. Regulatory Cooperation

(a) The Exchange may enter into agreements that provide for the exchange of information and other forms of mutual assistance for market surveillance, investigative, enforcement and other regulatory purposes, with domestic SROs and foreign self-regulatory organizations, as well as associations and contract markets and the regulators of such markets.

(b) No Member, partner, officer, director or other person associated with a Member or other person or entity subject to the jurisdiction of the Exchange shall refuse to appear and testify before another exchange or self-regulatory organization in connection with a regulatory investigation, examination or disciplinary proceeding or refuse to furnish documentary materials or other information or otherwise impede or delay such investigation, examination or disciplinary proceeding if the Exchange requests such information or testimony in connection with an inquiry resulting from an agreement entered into by the Exchange pursuant to paragraph (a) of this Rule, including but not limited to members and affiliates of the Intermarket Surveillance Group. The requirements of this paragraph (b) shall apply regardless whether the Exchange has itself initiated a formal investigation or disciplinary proceeding.

(c) Whenever information is requested by the Exchange pursuant to this Rule, the Member or person associated with a Member from whom the information is requested shall have the same rights and procedural protections in responding to such request as such Member or person would have in the case of any other request for information initiated by the Exchange pursuant to Rule 1601(b).

Rule 1407. Short Sales in Nasdaq National Market Securities

This Rule provides that market maker transactions in designated Nasdaq National Market securities underlying options classes to which market makers are appointed are exempt from the NASD's restriction on short sales contained in NASD Rule 3350 (the "bid test"). NASD Rule 3350, however, only is approved on a temporary basis. Accordingly, this Rule will continue in effect only so long as the options market maker exemption from the NASD bid test remains in effect.

(a) No Member shall initiate, accept or transmit for execution, or execute a sale of a designated Nasdaq National Market security for its own account or for the account of another Member unless the sale is clearly identified as a long sale, short sale or bid test exempt sale.

(b) For purposes of this Rule, a short sale shall have the same meaning as set forth in SEC Rule 3b-3 under the Exchange Act.

(c) A short sale may be designated as a bid test exempt sale if:

(1) The sale qualifies for an exemption from the short sale bid test established in NASD rule 3350; or

(2) The short sale is by or for the account of a Primary or Competitive Market Maker and is an exempt hedge transaction in a designated

Nasdaq National Market security underlying a class of stock options to which a registered ISE market maker is appointed under Rule 803.

(d) *Definitions.* For purposes of paragraph (c) of this Rule:

(1) An "exempt hedge transaction" shall mean a short sale in a designated Nasdaq National Market security that was effected to hedge, and in fact serves to hedge, an existing offsetting options position or an offsetting options position that was created in one or more transactions contemporaneous with the short sale, provided that, in the case of a stock option, when establishing the short position the market maker receives or is eligible to receive good faith margin pursuant to Section 220.12 of Regulation T of the Federal Reserve Board for that transaction.

(2) Transactions will be considered to be "contemporaneous" if they occur simultaneously or within the same brief period of time. A transaction unrelated to normal options market making activity that is independent of a market maker's market making functions will not be considered an "exempt hedge transaction."

(3) A "designated Nasdaq National Market security" shall mean a Nasdaq National Market security which qualifies for the exemption provided in this Rule.

(e) The Exchange may withdraw, suspend or modify a market maker's eligibility for an exemption from the NASD's bid test as the result of a disciplinary action.

(f) Short sales of a security of a company involved in a publicly announced merger or acquisition by or for the account of a market maker will be deemed to be an exempt hedge transaction qualifying for designation as bid test exempt if the short sale was made to hedge existing or prospective positions (based on communicated indications of interest) in options on a security of another company involved in the merger or acquisition, where the options positions are or will be in a class of options to which the market maker is appointed under Rule 803, and were or will be established in the course of bona fide market making activity.

(g) It will not be deemed a violation of this Rule when a Member designates a sale for an account in which the Member has no interest as a long sale where the Member does not know or have reason to know that the beneficial owner of the account has, or as a result of such sale would have, a short position in the security, or where a Member designates such a sale as a bid test exempt sale where the Member does not know or have reason to know that the criteria for designating such sale as bid test exempt are not satisfied.

(h) If a Member initiates, accepts, transmits for execution or executes a short sale of a designated Nasdaq National Market security without clearly and properly identifying it as required by paragraph (a) above, or if a Member designates a short sale as a bid test exempt sale under paragraph (c) but fails to satisfy all of the conditions to such designation, or even if all such conditions are satisfied, if the sale is made for the purpose of disrupting or manipulating the market in the security that is the subject of the sale or a related option, such sale may constitution a violation of Rules 400 (Just and

Equitable Principles of Trade), 405 (Manipulation) and 804(a) (Obligations of Market Makers), as well as this Rule.

CHAPTER 15

Summary Suspension

Rule 1500. Imposition of Suspension

(a) A Member or person associated with a Member that has been expelled or suspended from any SRO or barred or suspended from being associated with a member of any SRO, or a Member that is in such financial or operating difficulty that the Board or a committee or Exchange official designated by the Board determines that the Member cannot be permitted to continue to do business as a Member with safety to investors, creditors, other Members, or the Exchange, may be summarily suspended.

(b) The Board or a committee or Exchange official designated by the Board may limit or prohibit any person with respect to access to services offered by the Exchange if any of the criteria of the foregoing sentence is applicable to such person or, in the case of a person who is a Member, if the Exchange determines that such person does not meet the qualification requirements or other prerequisites for such access with safety to investors, creditors, Members or the Exchange.

(c) In the event a determination is made to take summary action pursuant to this Rule, notice thereof will be sent to the SEC.

(d) Any person aggrieved by any summary action taken under this Rule shall be promptly afforded an opportunity for a hearing by the Exchange in accordance with the provisions of Chapter 17 (Hearing and Review).

(e) A summary suspension or other action taken pursuant to this Chapter shall not be deemed to be disciplinary action under Chapter 16 (Discipline). The provisions of Chapter 16 shall be applicable regardless of any action taken pursuant to this Chapter.

Rule 1501. Investigation Following Suspension

(a) Every Member or person associated with a Member against which action has been taken in accordance with the provisions of this Chapter shall immediately afford every facility required by the Exchange for the investigation of his or its affairs and shall forthwith file with the Secretary a written statement covering all information requested, including a complete list of creditors and the amount owing to each and a complete list of each open long and short position in Exchange options contracts maintained by the Member and each of his or its customers.

(b) Paragraph (a) includes, without limitation, the furnishing of such books and records of the Member or person associated with a Member and the giving of such sworn testimony as may be requested by the Exchange.

Rule 1502. Reinstatement

(a) *General*.

(1) A Member, person associated with a Member or other person suspended or limited or prohibited with respect to access to services offered by the Exchange under the provisions of this Chapter may apply for reinstatement within the time period set forth below.

(2) Notice of an application for reinstatement shall be given by the Secretary to the Membership and shall be posted by the Exchange at least five (5) business days prior to the consideration by the Exchange of said application.

(3) The Exchange may approve an application for reinstatement if it finds that the applicant is operationally and financially able to conduct his business with safety to investors, creditors, Members, and the Exchange.

(b) *Suspension Due to Operating Difficulty*.

(1) An applicant that, by reason of operating difficulty, has been suspended or limited or prohibited with respect to Exchange services, must file any application for reinstatement within six months from the date of such action. Such application must include a statement of all actions taken by the applicant to remedy the operational difficulty in question.

(2) If the applicant fails to receive reinstatement, or if the application is not acted upon ninety (90) days of its submission, the applicant shall be afforded an opportunity for a hearing in accordance with the provisions of Chapter 17 (Hearing and Review).

(c) *Suspension Due to Financial Difficulty*.

(1) An applicant who, by reason of financial difficulty, has been suspended or limited or prohibited with respect to Exchange services, must file any application for reinstatement within thirty (30) days of such action.

(2) Such application must include a list of all creditors of the applicant a statement of the amount originally owing and the nature of the settlement in each case, and such other information as may be requested by the Exchange.

(3) The Membership of a Member summarily suspended by reason of financial difficulty may not be disposed of by the Exchange until that Member has been afforded an opportunity for a hearing respecting such summary suspension pursuant to the provisions of Chapter 17 (Hearing and Review).

Rule 1503. Failure to Obtain Reinstatement

If a Member suspended under the provisions of this Chapter fails or is unable to apply for reinstatement in accordance with Rule 1502, or fails to obtain reinstatement as therein provided, his or its Membership shall be disposed of by the Exchange in accordance with Rule 310(b), unless such Member sells or leases such Membership.

Rule 1504. Termination of Rights by Suspension

A Member suspended under the provisions of this Chapter shall be deprived during the term of his or its suspension of all rights and privileges of Membership.

CHAPTER 16

Discipline

Rule 1600. Disciplinary Jurisdiction

(a) A Member or a person associated with a Member who is alleged to have violated or aided and abetted a violation of any provision of the Exchange Act, the rules and regulations promulgated thereunder, or any provision of the Constitution or Rules of the Exchange or any interpretation thereof or resolution of the Board of the Exchange regulating the conduct of business on the Exchange, shall be subject to the disciplinary jurisdiction of the Exchange under this Chapter, and after notice and opportunity for a hearing may be appropriately disciplined by expulsion, suspension, limitation of activities, functions, and operations, fine, censure, being suspended or barred from being associated with a Member or any other fitting sanction, in accordance with provisions of the Chapter.

(b) Persons associated with a Member may be charged with any violation committed by employees under his supervision or by the Member as though such violation were his own. A Member may be charged with any violation committed by its employees or other person who is associated with such Member, as though such violation were its own.

(c) Any Member or person associated with a Member shall continue to be subject to the disciplinary jurisdiction of the Exchange following such person's termination of membership or association with a Member with respect to matters that occurred prior to such termination; provided that written notice of the commencement of an inquiry into such matters is given by the Exchange to such former Member or former associated person within one (1) year of receipt by the Exchange, or such other exchange or association recognized for purposes of Rule 602, of the latest written notice of the termination of such person's status as a Member or person associated with a Member. The foregoing notice requirement does not apply to a person who at any time after a termination again subjects himself to the disciplinary jurisdiction of the Exchange by becoming a Member or a person associated with a Member.

[Adopted February 24, 2000; amended July 12, 2001 (SR-ISE-2001-04).]

Rule 1601. Requirement to Furnish Information

Each Member and person associated with a Member shall be obligated upon request by the Exchange (including by another SRO acting on behalf of the Exchange pursuant to Rule 1615) to appear and testify, and to respond in writing to interrogatories and furnish documentary materials and other information requested in connection with (i) an investigation initiated pursuant to Rule 1602, (ii) a hearing or appeal conducted pursuant to this Chapter or preparation by the Exchange in

anticipation of such a hearing or appeal, or (iii) an Exchange inquiry resulting from an agreement entered into by the Exchange pursuant to Rule 1406.

(a) A Member or person associated with a Member is entitled to be represented by counsel during any such Exchange investigation, proceeding or inquiry.

(b) No Member or person associated with a Member shall impede or delay an Exchange investigation or proceeding conducted pursuant to this Chapter or an Exchange inquiry pursuant to Rule 1406, nor refuse to comply with a request made by the Exchange pursuant to this paragraph.

(c) Failure to furnish testimony, documentary evidence or other information requested by the Exchange in the course of an Exchange inquiry, investigation, hearing or appeal conducted pursuant to this Chapter, or in the course of preparation by the Exchange in anticipation of such a hearing or appeal, on the date or within the time period the Exchange specifies shall be deemed to be a violation of this Rule.

[Adopted February 24, 2000; amended July 12, 2001 (SR-ISE-2001-04).]

Rule 1602. Investigation

The Exchange's regulatory staff (including regulatory staff of another SRO acting on the Exchange's behalf pursuant to Rule 1615), which is obligated to act independently from the economic interests of the Members regulated by the Exchange, has sole discretion to investigate possible violations within the disciplinary jurisdiction of the Exchange on its own initiative or based upon a complaint alleging possible violations submitted by any person, Exchange committee or the Board. All complaints shall be in writing signed by the complainant and shall specify in reasonable detail the facts constituting the violation, including the specific statutes, by-laws, rules, interpretations or resolutions allegedly violated.

[Adopted February 24, 2000; renumbered and amended July 12, 2001 (SR-ISE-2001-04).]

Rule 1603. Letters of Consent

In lieu of the procedures set forth in Rules 1604 through 1606 (Charges, Answer and Hearing), a matter may be disposed of through a letter of consent.

(a) A matter can only be disposed of through a letter of consent if regulatory staff and the Member or person(s) who is the subject of the investigation (the "Subject") are able to agree upon terms of a letter of consent. Such letter must be signed by the Subject and must set forth a stipulation of facts and findings concerning the Member's conduct, the violation(s) committed by the Member and the sanction(s) therefor.

(b) In the event that the Subject and the regulatory staff are able to agree upon a letter of consent, the staff shall submit the letter to the Chief Regulatory Officer. If the letter of consent is acceptable to the Chief Regulatory Officer, it shall be submitted to the Business Conduct Committee. In the event that the Member and the regulatory staff are unable to agree upon a letter of consent or if a proposed letter is not acceptable to the Chief Regulatory Officer, the staff may institute an action according to the procedures contained in Rule 1604. The Chief Regulatory Officer's decision to reject a letter of consent shall be final, and a Subject may not seek review thereof.

(c) If a letter of consent is submitted to and accepted by the Business Conduct Committee, the Exchange shall take no further action against the Subject respecting the matters that are the subject of the letter. If the letter of consent is rejected by the Business Conduct Committee, the matter shall proceed as though the letter had not been submitted. The Business Conduct Committee's decision to accept or reject a letter of consent shall be final, and a Subject may not seek review thereof.

[Adopted February 24, 2000; renumbered and amended July 12, 2001 (SR-ISE-2001-04).]

Rule 1604. Charges

(a) *Initiation of Charges.* Whenever it shall appear that there is probable cause for finding a violation within the disciplinary jurisdiction of the Exchange and that further proceedings are warranted, the regulatory staff shall prepare a statement of charges against the Member or associated person alleged to have committed a violation (the "Respondent") specifying the acts in which the Respondent is charged to have engaged and setting forth the specific provisions of the Exchange Act, rules and regulations promulgated thereunder, provisions of the Constitution or Rules of the Exchange, or interpretations or resolutions of which such acts are in violation. If the statement of charges is approved by the Chief Regulatory Officer, a copy of the charges shall be served upon the Respondent in accordance with Rule 1612. The complainant, if any, shall be notified if further proceedings are warranted.

(b) *Access to Documents.* Provided that a Respondent has made a written request for access to documents described hereunder with sixty (60) calendar days after a statement of charges has been served upon the Respondent in accordance with Rule 1612, the Respondent shall have access to all documents concerning the case that are in the investigative file of the Exchange except for regulatory staff investigation and examination reports and any other materials prepared by the Exchange staff in connection with such reports or in anticipation of a disciplinary hearing. In providing such documents, the Exchange may protect the identity of a complainant.

[Adopted February 24, 2000; renumbered and amended July 12, 2001 (SR-ISE-2001-04).]

Rule 1605. Answer

(a) The Respondent shall have twenty-five (25) calendar days after service of the charges to file with the Secretary of the Exchange a written answer thereto. The answer shall specifically admit or deny each allegation contained in the charges, and the Respondent shall be deemed to have admitted any allegation not specifically denied. The answer may also contain any defense that the Respondent wishes to submit and may be accompanied by documents in support of his answer or defense. In the event the Respondent fails to file an answer, the charges shall be considered to be admitted.

(b) Upon review of the Respondent's answer, the Chief Regulatory Officer may modify the statement of charges, and a copy of the modified charges shall be served upon the Respondent in accordance with Rule 1612. If such modification asserts any new or materially different charges from those contained in the initial statement, Respondent shall have an additional twenty-five (25) calendar days after service of the modified statement of charges to file a written answer thereto in accordance with paragraph (a) above.

[Adopted February 24, 2000; renumbered and amended July 12, 2001 (SR-ISE-2001-04).]

Rule 1606. Hearing

(a) *Appointment of Hearing Panel*. Subject to Rule 1608 (Summary Proceedings), a hearing on the charges shall be held before a professional hearing officer and two members of the Business Conduct Committee (the "Panel"). The professional hearing officer shall serve as the chairman of the Panel (the "Panel Chairman").

(1) Promptly after the Respondent files a written answer to the statement of charges, the Chairman of the Business Conduct Committee shall select from among the persons on the Business Conduct Committee two (2) persons to serve on the Panel. In making such selection, the Chairman of the Business Conduct Committee shall, to the extent practicable, choose individuals whose background, experience and training qualify them to consider and make determinations regarding the subject matter to be presented to the Panel. He shall also consider such factors as the availability of individuals, the extent of their prior service on Panels and any relationship between an individual and the Respondent that might make it inappropriate for such person to serve on the Panel.

(2) If in the opinion of the Chairman of the Business Conduct Committee, there are not a sufficient number of persons on the Business Conduct Committee from which to select persons having the appropriate background, experience and training to consider and make determinations regarding the subject matter to be presented to that particular Panel, he shall request that the President temporarily appoint additional persons to the Business Conduct Committee from whom he may select for that Panel.

(3) If at any time a person serving on a Panel has a conflict of interest or bias or circumstances otherwise exist where his fairness might reasonably be questioned, the person must withdraw from the Panel. In the event that a person selected from the Business Conduct Committee withdraws, is incapacitated, or otherwise is unable to continue service after being selected, the Panel Chairman may, in the exercise of discretion, request that the Chairman of the Business Conduct Committee select a replacement. In the event that both persons selected from the Business Conduct Committee withdraw, are incapacitated, or otherwise are unable to continue service, the Chairman of the Business Conduct Committee shall select two replacements.

(b) *Parties.* The Exchange and the Respondent shall be the parties to the hearing. Where a Member is a party, it shall be represented at the hearing by an associated person.

(c) *Notice and List of Documents.* Parties shall be given at least twenty-eight (28) calendar days notice of the time and place of the hearing. Not less than ten (10) calendar days in advance of the scheduled hearing date, each party shall furnish to the Panel and to the other parties copies of all documentary evidence such party intends to present at the hearing. Where time and the nature of the proceeding permit, the parties shall meet with the Panel Chairman in a pre-hearing conference for the purpose of clarifying and simplifying issues and otherwise expediting the proceeding. At such pre-hearing conference, the parties shall attempt to reach agreement respecting authenticity of documents, facts not in dispute, and any other items that will serve to expedite the hearing of the matter.

(d) *Intervention.* Any person not otherwise a party may intervene as a party to the hearing upon demonstrating to the satisfaction of the Panel Chairman that he has an interest in the subject of the hearing and that the disposition of the matter may, as a practical matter, impair or impede his ability to protect that interest. Also, the Panel Chairman may in his discretion permit a person to intervene as a party to the hearing when the person's claim or defense and the main action have questions of law or fact in common. Any person wishing to intervene as a party to a hearing shall file with the Panel Chairman a notice requesting the right to intervene, stating the grounds therefor, and setting forth the claim or defense for which intervention is sought. The Panel Chairman, in exercising his discretion concerning intervention shall take into consideration whether the intervention will unduly delay or prejudice the adjudication of the rights of the original parties.

(e) *Conduct of Hearing.* The Panel Chairman shall determine the time and place of all meetings, and shall make all determinations with regard to procedural or evidentiary matters, as well as prescribe the time within which all documents, exhibits, briefs, stipulations, notices or other written materials must be filed where such is not specified in this Chapter. The Panel Chairman shall generally regulate the course of the hearing, and shall have the authority to, among other things, order the parties to present oral arguments, reopen a hearing prior to the issuance of a decision by the Panel, create and maintain the official record of proceeding, and draft a decision that

represents the views of the majority of the Panel. Formal rules of evidence shall not apply to hearings conducted by the Panel. The charges shall be presented by a representative of the Exchange who, along with Respondent and any other party, may present evidence and produce witnesses who shall testify under oath and are subject to being questioned by the Panel and the other parties. The Panel may request the production of documentary evidence and witnesses. No Member or person associated with a Member shall refuse to furnish relevant testimony, documentary materials or other information requested by the Panel during the course of the hearing. The Respondent and intervening parties are entitled to be represented by counsel who may participate fully in the hearing. A transcript of the hearing shall be made and shall become part of the record. Interlocutory Board review of any decision made by the Panel prior to completion of the hearing is generally prohibited. Such interlocutory review shall be permitted only if the Panel agrees to such review after determining that the issue is a controlling issue of rule or policy and that immediate Board review would materially advance the ultimate resolution of the case.

(f) *Ex Parte Communication.* No Member or person associated with a Member shall make or knowingly cause to be made an ex parte communication with any member of the Panel, Business Conduct Committee or Board concerning the merits of any matter pending under this Chapter. No member of the Panel, Business Conduct Committee or Board shall make or knowingly cause to be made an ex parte communication with any Member or any person associated with a Member concerning the merits of any matter pending under this Chapter.

(1) "Ex parte communication" means an oral or written communication made without notice to all parties, that is, regulatory staff and Subjects of investigations or Respondents in proceedings.

(2) A written communication is ex parte unless a copy has been previously or simultaneously delivered to all interested parties. An oral communication is ex parte unless it is made in the presence of all parties except those who, on adequate prior notice, declined to be present.

[Adopted February 24, 2000; renumbered and amended July 12, 2001 (SR-ISE-2001-04).]

Rule 1607. Decision

(a) Following a hearing conducted pursuant to Rule 1606, the Panel shall by majority opinion, issue a decision in writing, based solely on the record, determining whether the Respondent has committed a violation and imposing the sanction, if any, therefor.

(b) The decision shall include a statement of findings and conclusions, with the reasons therefor, upon all material issues presented on the record. Where a sanction is imposed, the decision shall include a statement specifying the acts or practices in which the Respondent has been found to have engaged and setting forth

the specific provisions of the Exchange Act, rules and regulations promulgated thereunder, provisions of the Constitution or Rules of the Exchange, interpretations or resolutions of the Exchange of which the acts are deemed to be in violation.

(c) The Respondent shall be sent a copy of the decision promptly after it is rendered.

[Adopted February 24, 2000; renumbered and amended July 12, 2001 (SR-ISE-2001-04).]

Rule 1608. Summary Proceedings

Notwithstanding the provision of Rule 1606 (Hearing), a Panel may make a determination without a hearing and may impose a penalty as to violations that the Respondent has admitted or has failed to answer or that otherwise do not appear to be in dispute.

(a) Notice of such summary determination, specifying the violations and penalty, shall be served upon the Respondent, who shall have ten (10) calendar days from the date of service to notify the Panel Chairman that he desires a hearing upon all or a portion of any charges not previously admitted or upon the penalty. Failure to so notify the Panel Chairman shall constitute admission of the violations and acceptance of the penalty as determined by the Panel and a waiver of all rights of review.

(b) If the Respondent requests a hearing, the matters that are the subject of the hearing shall be handled as if the summary determination had not been made.

[Adopted February 24, 2000; renumbered and amended July 12, 2001 (SR-ISE-2001-04).]

Rule 1609. Offers of Settlement

(a) *Submission of Offer.* At any time during a period not to exceed 120 calendar days immediately following the date of service of a statement of charges upon the Respondent in accordance with Rule 1612, the Respondent may submit to the Panel, if one has been formed, a written offer of settlement, signed by him, which shall contain a proposed stipulation of facts and consent to a specified sanction. The Respondent may submit a written statement in support of the offer. If a Panel has not yet been appointed, a written offer of settlement may be submitted to the Chief Regulatory Officer.

(1) A Respondent shall be entitled to submit a maximum of two (2) written offers of settlement in connection with the statement of charges issued to that Respondent pursuant to Rule 1604, unless a Panel, in its discretion, permits a Respondent to submit additional offers of settlement.

(2) The 120-day period shall be tolled for the number of days in excess of seven (7) calendar days that it takes the Exchange regulatory staff to

respond to a Respondent's request for access to documents provided that the request for access is made pursuant to the provisions and within the time frame provided in Rule 1604(b).

(b) *Acceptance or Rejection of Offer*. Where the Panel or Chief Regulatory Officer accepts an offer of settlement, it or he shall issue a decision, including findings and conclusions and imposing a sanction, consistent with the terms of such offer. Where the Panel or Chief Regulatory Officer rejects an offer of settlement, it or he shall notify the Respondent and the matter shall proceed as if such offer had not been made, and the offer and all documents relating thereto shall not become a part of the record. Subject to Rule 1608 (Summary Proceedings), following the end of the 120-day period in paragraph (a) above or after a rejection of a Respondent's second offer of settlement, a hearing will proceed in accordance with the provisions of Rule 1606. A decision of the Panel or Chief Regulatory Officer issued upon acceptance of an offer of settlement, as well as the determination whether to accept or reject such an offer, shall be final, and the Respondent may not seek review thereof.

[Adopted February 24, 2000; renumbered and amended July 12, 2001 (SR-ISE-2001-04).]

Rule 1610. Review

(a) *Petition.* The Respondent or regulatory staff shall have fifteen (15) calendar days after service of notice of a decision made pursuant to Rule 1607 of this Chapter to petition for review thereof by the Board. Such petition shall be in writing and shall specify the findings and conclusions to which exceptions are taken, together with reasons for such exceptions. Any objections to a decision not specified by written exception shall be considered to have been abandoned. Petitions shall be filed with the Secretary of the Exchange.

(b) *Motion of Board.* The Board may on its own initiative order review of a decision made pursuant to Rule 1607 or 1608 (Summary Proceeding) within thirty (30) calendar days after notice of the decision has been served on the Respondent.

(c) *Conduct of Review.* The review shall be conducted by the Board or a committee of the Board composed of at least three Directors whose decision must be ratified by the Board.

(1) Any Director who participated in a matter may not participate in review of that matter by the Board.

(2) Unless the Board shall decide to open the record for the introduction of evidence or to hear argument, such review shall be based solely upon the record and the written exceptions filed by the parties.

(3) New issues may be raised by the Board, and in such event, Respondents and regulatory staff shall be given notice of an opportunity to address any such new issues.

(d) *Determination.* The Board may affirm, reverse or modify, in whole or in part, the decision of the Panel. Such modification may include an increase or decrease of the sanction. The decision of the Board shall be in writing, shall be promptly served on the Respondent, and shall be final.

[Adopted February 24, 2000; renumbered and amended July 12, 2001 (SR-ISE-2001-04).]

Rule 1611. Judgment and Sanction

(a) *Sanctions.* Members and persons associated with Members shall (subject to any rule or order of the SEC) be appropriately disciplined for violations under these Rules by expulsion, suspension, limitation of activities, functions and operations, fine, censure, being suspended or barred from being associated with a Member, or any other fitting sanction.

(b) *Effective Date of Judgment.* Sanctions imposed under this Chapter shall not become effective until the Exchange review process is completed or the decision otherwise becomes final. Pending effectiveness of a decision imposing a sanction on the Respondent, the person, committee or panel issuing the decision (the "adjudicator") may impose such conditions and restrictions on the activities of the Respondent as it considers reasonably necessary for the protection of investors and the Exchange.

(c) *Payment of Fines, Other Monetary Sanctions, or Costs; Summary Action for Failure to Pay*.

(1) *Payment to Chief Financial Officer*. All fines and other monetary sanctions shall be paid to the Chief Financial Officer of the Exchange.

(2) *Summary Suspension or Expulsion*. After seven (7) calendar days notice in writing, the Exchange may summarily suspend a Member that fails to: (i) pay promptly a fine, other monetary sanction or cost imposed pursuant to this Chapter when such fine, monetary sanction or cost becomes finally due and payable; or (ii) terminate immediately the association of a person who fails to pay promptly a fine, other monetary sanction or cost imposed pursuant to this Chapter when such fine, monetary sanction or cost becomes finally due and payable.

(d) *Costs of Proceedings*. A Member or person associated with a Member disciplined pursuant to this Chapter shall bear such costs of the proceeding as the adjudicator deems fair and appropriate under the circumstances.

[Adopted February 24, 2000; renumbered and amended July 12, 2001 (SR-ISE-2001-04).]

Rule 1612. Procedural Matters

(a) *Service of Notice.* Any charges, notices or other documents may be served upon a Member or associated person either personally or by leaving the same at his place of business, by registered or certified mail or overnight commercial carrier addressed to the Member or associated person at the Member's address as it appears on the books and records of the Exchange.

(b) *Extension of Time Limits.* Any time limits imposed under this Chapter for the submission of answers, petitions or other materials may be extended by permission of the authority to whom such materials are to be submitted.

[Adopted February 24, 2000; renumbered and amended July 12, 2001 (SR-ISE-2001-04).]

Rule 1613. Reporting to the Central Registration Depository

(a) With respect to formal Exchange disciplinary proceedings, the Exchange shall report to the CRD the issuance of a statement of charges pursuant to Exchange Rule 1604 and all significant changes in the status of such proceedings while such proceedings are pending.

(b) For purposes of reporting to the CRD:

(1) A formal Exchange disciplinary proceeding shall be considered to be pending from the time that a statement of charges is issued in such proceeding pursuant to Exchange Rule 1604 until the outcome of the proceeding becomes final.

(2) An Exchange disciplinary proceeding shall be considered to be a formal disciplinary proceeding if it is initiated by the Exchange pursuant to Rule 1602.

(3) Significant changes in the status of a formal Exchange disciplinary proceeding shall include, but not be limited to, the scheduling of a disciplinary hearing, the issuance of a decision by a Panel, the filing of an appeal to the Board, and the issuance of a decision by the Board.

[Adopted February 24, 2000; amended July 12, 2001 (SR-ISE-2001-04).]

Rule 1614. Imposition of Fines for Minor Rule Violations

(a) *General*. In lieu of commencing a disciplinary proceeding, the Exchange may, subject to the requirements set forth herein, impose a fine, not to exceed $5,000, on any Member, or person associated with or employed by a Member, with respect to any Rule violation listed in section (d) of this Rule. Any fine imposed pursuant to this Rule that (i) does not exceed $2,500 and (ii) is not contested, shall be reported on a periodic basis, except as may otherwise be required by Rule 19d-1 under the Exchange Act or by any other regulatory authority. The Exchange is not required to impose a fine pursuant to this Rule with respect to the violation of any Rule included

herein, and the Exchange may, whenever it determines that any violation is not minor in nature, proceed under Exchange Rules 1603 or 1604, rather than under this Rule.

(b) *Notice*. Any person against whom a fine is imposed under this Rule (the "Subject") shall be served with a written statement setting forth (i) the Rule(s) allegedly violated; (ii) the act or omission constituting each such violation; (iii) the fine imposed for each violation; and (iv) the date by which such determination becomes final and such fine must be paid or contested as provided below, which date shall be not less than thirty (30) calendar days after the date of service of such written statement.

(c) *Review*. A Subject may contest the Exchange's determination by filing with the Office of the Secretary of the Exchange a written answer as provided in Exchange Rule 1605 on or before the date such fine must be paid.

(1) Upon the receipt of an answer by the Exchange the matter becomes subject to review by the Business Conduct Committee, or a subcommittee thereof consisting of at least three (3) members of the Business Conduct Committee.

(2) The answer must include a request for a hearing, if a hearing is desired. Formal rules of evidence shall not apply to hearings conducted by the Business Conduct Committee under this Rule. The Business Conduct Committee shall determine the time and place of the hearing and make all determinations with regard to procedural or evidentiary matters, as well as prescribe the time within which all documents or written materials must be submitted. The regulatory staff and the Subject may present evidence and produce witnesses who shall testify under oath and are subject to being questioned by the Business Conduct Committee and the other party. No Member or person associated with a Member shall refuse to furnish relevant testimony, documentary materials or other information requested by the Business Conduct Committee during the course of the hearing. The Subject is entitled to be represented by counsel who may participate fully in the hearing.

(3) If a hearing is not requested, the review will be based on written submissions and will be conducted in a manner to be determined by the Business Conduct Committee.

(4) If, after a hearing or review based on written submissions, the Business Conduct Committee determines that the Subject is guilty of the rule violation(s) alleged, the Committee may impose any one or more of the disciplinary sanctions authorized by the Exchange's Constitution and Rules. Unless the sole disciplinary sanction imposed by the Committee for such rule violation(s) is a fine that is less than the total fine initially imposed by the Exchange for the subject violation(s), the person charged shall pay a forum fee in the amount of $100 if the determination was reached without a hearing and $300 if a hearing was conducted.

(5) The regulatory staff, the Subject or the Board on its own motion may require a review by the Board of any determination by the Business Conduct Committee under this Rule by proceeding in the manner described in Rule 1610.

(6) In the event that a fine imposed pursuant to this Rule is subsequently upheld by the Business Conduct Committee or, if applicable, on appeal to the Board, such fine, plus all interest that has accrued thereon since the fine was due and any forum fee imposed pursuant to subparagraph (4) above, shall be immediately payable.

(d) *Violations Subject to Fines.* The following is a list of the rule violations subject to, and the applicable sanctions that may be imposed by the Exchange pursuant to, this Rule:

(1) Position Limits (Rule 411). Violations of the position limit rule that continue over consecutive business days will be subject to a separate fine for each business day during which the violation occurs and is continuing.

(A) *Customer Accounts.* For purposes of this subparagraph (A) only,, all accounts of non-member broker-dealers will be treated as customer accounts. In calculating fine thresholds under this subparagraph (A) for each Exchange Member, all violations occurring within a single calendar year in all of that Member's customer accounts are to be added together.

For violations of Rule 411 occurring in customer accounts, the Member shall be subject to fines as follows, with a minimum fine amount of $100:

Number of Cumulative Violations Within One Calendar Year	Sanction
1 to 6 (up to 5% in excess of applicable limit)	Letter of Caution
1 to 6 (above 5% in excess of applicable limit)	$1 per contract
7 to 12	$1 per contract over limit
13 or more	$5 per contract over limit

(B) *Member Accounts.* For violations occurring in a Member's account (*i.e.*, proprietary accounts and accounts of other Exchange Members), the Member whose account exceeded the limits shall be subject to fines as follows, with a minimum fine amount of $100:

Number of Violations Within One Calendar Year	Sanction
1 to 3 (up to 5% in excess of applicable limit)	Letter of Caution
1 to 3 (above 5% in excess of applicable limit)	$1 per contract
4 to 6	$1 per contract over limit
7 or more	$5 per contract over limit

(2) Focus Reports (Rule 1403).Each Member shall file with the Exchange a report of financial condition on SEC Form X-17A-5 as required by Rule 17a-10 under the Exchange Act. Any Member who fails to file in a timely manner such report of financial condition pursuant to Exchange Act Rule 17a-10 shall be subject to the following fines:

Calendar Days Late	Sanction
1 to 30	$200
31 to 60	$400
61 to 90	$800
90 or more	Formal Disciplinary Action

(3) Requests for Trade Data (Rule 1404). Any Member who fails to respond within ten (10) business days to a request by the Exchange for submission of trade data shall be subject to the following fines:

Business Days Late	Sanction
1 to 9	$200
10 to 15	$500
16 to 30	$1,000
Over 30	Formal Disciplinary Action

Any Member who violates this Rule more than one (1) time in any calendar year shall be subject to the following fines, which fines shall be imposed in addition to any sanction imposed pursuant to the schedule above:

Number of Violations Within One Calendar Year	Sanction
2nd Offense	$500
3rd Offense	$1,000
4th Offense	$2,500
Subsequent Offenses	Formal Disciplinary Action

(4) Conduct and Decorum Policies. The Exchange's trading conduct and decorum policies shall be distributed to the membership periodically and shall set forth the specific dollar amounts that may be imposed as a fine hereunder with respect to any violations of those policies.

(5) Order Entry (Rule 717). Violations of Rule 717(a), (c)-(e) regarding limitations on orders entered into the System by Electronic Access Members, as well as violations of Rule 805(b)(1)(i) regarding restrictions on orders entered by market makers, will be subject to the fines listed below. Each paragraph of Rule 717 subject to this Rule shall be treated separately for purposes of determining the number of cumulative violations.

Number of Violations Within One Calendar Year	Sanction
1 to 5	Letter of Caution
6 to 10	$500
11 to 15	$1000
16 to 20	$2000
Over 20	Formal Disciplinary Action

(6) Quotation Parameters (Rule 803). Violations of Rule 803(b)(4) regarding spread parameters for market maker quotations shall be subject to the fines listed below. For purposes of this Rule, the spread parameters in Rule 803(b)(4) will not be violated upon a change in a bid (offer) if a market maker takes immediate action to adjust its offer (bid) to comply with the maximum allowable spread. Except in unusual market conditions, immediate shall mean within ten (10) seconds of a change in the market makers bid or offer.

Number of Violations Within One Calendar Year	Sanction
1 to 10	Letter of Caution
11 to 20	$200

21 to 30	$400
31 to 40	$800
Over 40	Formal Disciplinary Action

(7) Execution of Orders in Appointed Options (Rule 805). Violations of Rule 805(b)(2) and (3) requiring market makers to execute in appointed options classes a minimum percentage of the total number of contracts executed during a quarter shall be subject to the following sanctions:

Number of Violations Within Rolling Twelve Month Period	Sanction
1st Offense	Letter of Caution
2nd Offense	$500
3rd Offense	$1,000
4th Offense	$2,500
Subsequent Offenses	Formal Disciplinary Action

[Adopted February 24, 2000; amended July 12, 2001 (SR-ISE-2001-04).]

Rule 1615. Disciplinary Functions

The Exchange may contract with another SRO to perform some or all of the Exchange's disciplinary functions. In that event, the Exchange shall specify to what extent the Rules in this Chapter shall govern Exchange disciplinary actions and to what extent the rules of the other SRO shall govern such actions. Notwithstanding the fact that the Exchange may contract with another SRO to perform some or all of the Exchange's disciplinary functions, the Exchange shall retain ultimate legal responsibility for and control of such functions.

Supplemental Material to Rule 1615:

.01 The Exchange has entered into a contract with NASD Regulation to provide professional hearing officers and to act as an agent of the Exchange with respect to the disciplinary procedures contained in this Chapter. All of the Rules in this Chapter shall govern Exchange disciplinary actions. Under Rule 1606(a), the professional hearing officer is designated as the Chairman of the Panel. Under Rule 1606(e), the Panel Chairman has the sole responsibility to determine the time and place of all meetings of the Panel, and make all determinations with regard to procedural or evidentiary matters, as well as prescribe the time within which all documents, exhibits, briefs, stipulations, notices or other written materials must be filed where such is not specified in the Rules. In the course of discharging his responsibilities hereunder, the professional hearing officer shall apply the standards contained in the NASD Code of Procedure, and

policies, practices and interpretations thereof, so long as the Rules in this Chapter are not in conflict.

[Adopted February 24, 2000; amended July 12, 2001 (SR-ISE-2001-04).]

CHAPTER 17

Hearings and Review

Rule 1700. Scope of Chapter

This Chapter provides the procedure for persons economically aggrieved by Exchange action, including, but not limited to, those persons or organizations who have been denied membership, barred from becoming associated with a Member, or prohibited or limited with respect to Exchange services, or the services of any Exchange Member, taken pursuant to any contractual arrangement, the Constitution or the Rules of the Exchange, to apply for an opportunity to be heard and to have the complained of action reviewed. Review of disciplinary actions and arbitrations are not subject to review under this Chapter.

Rule 1701. Submission of Application to Exchange

(a) *The Application*. A person who is aggrieved by any action of the Exchange within the scope of this Chapter and who desires to have an opportunity to be heard with respect to such action shall file a written application within thirty (30) days after such action has been taken. The application shall state the action complained of and the specific reasons why the applicant takes exception to such action and the relief sought. The application should indicate whether the applicant intends to submit any documents, statements, arguments or other material in support of the application, and describe any such materials.

(b) *Extensions of Time to File Applications*. An application that is not filed within the time specified in paragraph (a) of this Rule shall not be considered by the Business Conduct Committee unless the applicant files his application within such extension of time as allowed by the Chairman of such Committee. In order to obtain an extension of time within which to file an appeal, the applicant must, within the time specified in paragraph (a) of this Rule, file an application for an extension of time within which to submit the application. Such an application for an extension will be ruled upon by the Chairman of the Business Conduct Committee, and his ruling will be given in writing. Rulings on applications for extensions of time are not subject to appeal.

Rule 1702. Procedure Following Applications for Hearing

(a) *Panel*. Applications for hearing and review shall be referred to the Business Conduct Committee, which shall appoint a hearing panel of no less than three (3) members of such Committee. A record of the proceedings shall be kept.

(b) *Documents*. The panel so appointed will set a hearing date and shall be furnished with all material relevant to the proceeding at least seventy-two (72) hours

prior to the date of the hearing. Each party shall have the right to inspect and copy the other party's material prior to the hearing.

(c) *Notice*. Parties to the proceeding shall be informed of the composition of the panel at least seventy-two (72) hours prior to the scheduled hearing.

Rule 1703. Hearing

(a) *Participants*. The parties to the hearing shall consist of the applicant and a representative of the Exchange who shall present the reasons for the action taken by the Exchange that allegedly aggrieved the applicant. In addition, any other person may intervene as a party in the hearing when the person claims an interest in the transaction that is the subject of the action and is so situated that the disposition of the action may, as a practical matter impair or impede that person's ability to protect that interest unless it is adequately represented by existing parties. Also, the panel may, in its discretion, permit a person to intervene in the action as a party when the person's claim or defense and the main action have a question of law and fact in common. The applicant is entitled to be accompanied, represented and advised by counsel at all stages of the proceeding.

(b) *Procedure for Intervention*. The person seeking intervention shall serve a motion to intervene on the Secretary, which will be transmitted to the panel. The motion shall state the grounds therefor and shall set forth the claim or defense upon which the intervention is sought.

(c) *Conduct of Hearing*. The panel shall determine all questions concerning the admissibility of evidence and shall otherwise regulate the conduct of the hearing. Each of the parties shall be permitted to make an opening statement, present witnesses and documentary evidence, cross-examine opposing witnesses and present closing arguments orally or in writing as determined by the panel. The panel shall also have the right to question all parties and witnesses to the proceeding and a record shall be kept. The formal rules of evidence shall not apply.

(d) *Decision*. The hearing panel's decision shall be made in writing and shall be sent to the parties to the proceedings. Such decision shall contain the reasons supporting the conclusions of the panel.

Rule 1704. Review

(a) *Petition*. The decision of the hearing panel shall be subject to review by the Board, either on its own motion within thirty (30) days after issuance, upon written request submitted by the applicant below, by the President of the Exchange, within fifteen (15) days after issuance of the decision. Such petition shall be in writing and shall specify the findings and conclusions to which exceptions are taken together with the reasons for such exceptions. Any objection to a decision not specified by written exception shall be considered to have been abandoned and may be disregarded. Parties may petition to submit a written argument to the Board and may request an

opportunity to make an oral argument before the Board. The Board, or a committee of the Board, will have sole discretion to grant or deny either request.

(b) *Conduct of Review*. The review shall be conducted by the Board or a Committee of the Board composed of at least three (3) Directors. Any Director who participated in a matter before it was appealed to the Board shall not participate in any review action by the Board concerning that matter. The review shall be made upon the record and shall be made after such further proceedings, if any, as the Board or its designated committee may order. An applicant shall be given notice of and a chance to address any issues raised by the Board on its own initiative.

(c) *Decision*. Based upon the record, the Board or its designated Committee may affirm, reverse or modify in whole or in part, the decision of the hearing panel. The decision of the Board or its designated committee shall be in writing, shall be sent to the parties to the proceeding, and shall be final.

Rule 1705. Miscellaneous Provisions

(a) *Service of Notice*. Any notices or other documents may be served upon the applicant either personally or by leaving the same at his place of business or by deposit in the United States post office, postage prepaid via registered or certified mail addressed to the applicant at his last known business or residence address.

(b) *Extension of Time Limits*. Any time limits imposed under this Chapter for the submission of answers, petitions or other materials may be extended by permission of the Secretary of the Exchange. All papers and documents relating to review by the Business Conduct Committee, the Board or its designated committee must be submitted to the Secretary of the Exchange.

Rule 1706. Hearing and Review Functions

The Exchange may contract with another SRO to perform some or all of the functions specified in this Chapter. In that event, the Exchange shall specify to what extent the Rules in this Chapter shall govern review of Exchange actions and hearings under this Chapter and to what extent the rules of the other SRO shall govern such activities. Notwithstanding the fact that the Exchange may contract with another SRO to perform some or all these functions, the Exchange shall retain ultimate legal responsibility for and control of such functions.

CHAPTER 18

Arbitration

Rule 1800. Matters Subject to Arbitration

(a) Any dispute, claim or controversy arising between parties who are Members or persons associated with a Member that arises out of the Exchange business of such parties shall, at the request of any such party and the approval of the Exchange's Director of Arbitration, be submitted for arbitration in accordance with these rules.

(b) Any dispute, claim or controversy arising between a non-member and a Member or persons associated with a Member that arises out of the Exchange business of such Member or a person associated with a Member shall, at the request of such non-member and the approval of the Exchange's Director of Arbitration, be submitted for arbitration in accordance with these rules.

(c) If a party to a dispute, in an Answer, Reply or other written response to a request for arbitration, has challenged the appropriateness of submitting a matter to arbitration under this Chapter, the Director of Arbitration shall serve upon the parties written notice of his decision to accept or reject the matter for arbitration.

(1) The decision by the Director of Arbitration to accept or reject a matter for arbitration shall, at the request of any party to the dispute, be subject to review by the Board of Directors or a panel of the Board composed of at least three Directors.

(2) Requests for review must be submitted in writing to the Secretary of the Exchange within ten calendar days from receipt of notice of the Director of Arbitration's decision.

(d) The arbitration provisions of this Chapter shall not constitute a prospective waiver of any right of action that may arise under the federal securities laws.

(e) For purposes of this Chapter, the terms Member and a person associated with a Member shall be deemed to encompass those persons who were former Exchange Members or persons associated with a Member.

(f) It may be deemed conduct inconsistent with just and equitable principles of trade for a Member or a person associated with a Member to fail to submit a dispute for arbitration on demand under the provisions of this Chapter, or to fail to provide any document in his possession or control as directed pursuant to the provisions of this Chapter or to fail to honor an award of arbitrators properly rendered

pursuant to the provisions of this Chapter where a timely motion has not been made to vacate or modify such award pursuant to applicable law.

Rule 1801. Procedure in Member Controversies

The following procedures shall apply in any dispute, claim or controversy between parties who are Members or persons associated with a Member which is submitted for arbitration pursuant to Rule 1800(a):

(a) *Selection of Arbitrators.* The arbitration panel shall be selected by the Director of Arbitration and shall consist of not less than three members of the Arbitration Committee.

(b) *Challenges.* Each party to the dispute may peremptorily challenge any person appointed to the arbitration panel. There shall be no fixed limit on the number of peremptory challenges by a party; however, no party may assert an unreasonable number of challenges. The Director of Arbitration shall deny peremptory challenges if both the Director of Arbitration and the Chairman of the Arbitration Committee agree that the number of such challenges by a party has been unreasonable. Unless extended by the Director of Arbitration, a party wishing to exercise a peremptory challenge must do so by notifying the Director of arbitration in writing within five (5) business days of notification of the identity of the person(s) named under Rule 1811 or Rule 1822 (d) or (e), whichever comes first. There shall be unlimited challenges for cause.

(c) *General.* Subject to the foregoing provisions of this Rule, the other Rules of Chapter 18 shall apply to arbitrations between Members except for those provisions specifically applicable to arbitrations involving Public Customers.

Uniform Arbitration Code

Rule 1802. Arbitration

(a) Any dispute, claim or controversy between a customer or non-member and a Member and/or associated person arising in connection with the business of such Member and/or associated person in connection with his activities as an associated person shall be arbitrated under the Rules of the Exchange, as provided by any duly executed and enforceable written agreement or upon the demand of the customer or non-member.

(b) Under this Uniform Arbitration Code (the “Code”), the Director of Arbitration shall have the right to decline the use of its arbitration facilities in any dispute, claim or controversy where, having the due regard for the purposes of the Exchange and the intent of this Code, such dispute, claim or controversy is not a proper subject matter for arbitration. Any determination by the Director of Arbitration in this regard is subject to review as provided in Rule 1800(c)

(c) Claims which arise out of transactions in a readily identifiable market may, with the consent of the Claimant, be referred to the arbitration forum for that market by the Director of Arbitration.

Rule 1803. Class Action Claims

(a) A claim submitted as a class action shall not be eligible for arbitration under this Code at the Exchange.

(b)(1) Any claim filed by a member or members of a putative or certified class action is also ineligible for arbitration at the Exchange if the claim is encompassed by a putative or certified class action filed in federal or state court, or is ordered by a court to an arbitral forum not sponsored by a self regulatory organization for a class-wide arbitration. However, such claims shall be eligible for arbitration in accordance with Rule 1800 or 1802 or pursuant to the parties' contractual agreement, if any, if a Claimant demonstrates that it has elected not to participate in the putative or certified class action or, if applicable, has complied with any conditions for withdrawing from the class prescribed by the court.

(2) Disputes concerning whether a particular claim is encompassed by a putative or certified class action shall be referred by the Director of Arbitration to a panel of arbitrator(s) appointed in accordance with Rule 1804 or Rule 1810, as applicable. Either party may elect instead to petition the court with jurisdiction over the putative or certified class action to resolve such disputes. Any such petition to the court must be filed within ten (10) business days of receipt of notice that the Director of Arbitration is referring the dispute to a panel of arbitrator(s).

(3) No Member and/or associated person shall seek to enforce any agreement to arbitrate against a customer, other Member or persons associated with a Member who has initiated in court a putative class action or is a member of a putative or certified class with respect to any claims encompassed by the class action unless and until:

(i) the class certification is denied;

(ii) the class is decertified;

(iii) the customer, other Member or person associated with a Member is excluded from the class by the court; or

(iv) the customer, other Member or person associated with a Member elects not to participate in the putative or certified class action, or, if applicable, has complied with any conditions for withdrawing from the class prescribed by the court.

(c) No Member and/or associated person shall be deemed to have waived any of its rights under this Code or under any agreement to arbitrate to which it is a party except to the extent stated in this Rule.

Rule 1804. Simplified Arbitration

(a) Any dispute, claim or controversy, arising between a Public Customer(s) and an associated person or a Member subject to arbitration under this Code involving a dollar amount not exceeding $10,000, exclusive of attendant costs and interest, shall be arbitrated as hereinafter provided.

(b) The Claimant shall file with the Director of Arbitration an executed Submission Agreement and a copy of the Statement of Claim of the controversy in dispute and the required deposit, together with documents in support of the claim. Sufficient additional copies of the Submission Agreement and the Statement of Claim and supporting documents shall be provided to the Director of Arbitration for each party and the arbitrator. The Statement of Claim shall specify the relevant facts, the remedies sought and whether a hearing is demanded.

(c) The Claimant shall pay a non-refundable filing fee and remit a hearing deposit as specified in Rule 1832 upon filing of the Submission Agreement. The final disposition of the fee or deposit shall be determined by the arbitrator.

(d)(1) The Director of Arbitration shall endeavor to serve promptly by mail or otherwise on the Respondent(s) one (1) copy of the Submission Agreement and one (1) copy of the Statement of Claim.

(2) Within twenty (20) calendar days from receipt of the Statement of Claim, Respondent(s) shall serve each party with an executed Submission Agreement and a copy of Respondent's Answer.

(3) Respondent's executed Submission Agreement and Answer shall also be filed with the Director of Arbitration with sufficient additional copies for the arbitrator(s) along with any forum fees required under Rule 1832. The Answer shall designate all available defenses to the Claim and may set forth any related Counter-Claim and/or related Third-Party Claim the Respondent(s) may have against the Claimant or any other person.

(4) If the Respondent(s) has interposed a Third-Party Claim, the Respondent(s) shall serve the Third-Party Respondent with an executed Submission Agreement, a copy of Respondent's Answer containing the Third-Party Claim and a copy of the original claim filed by the Claimant. The Third-Party Respondent shall respond in the manner herein provided for response to the Claim.

(5) If the Respondent(s) files a related Counter-Claim exceeding $10,000 the arbitrator may refer the Claim, Counter-Claim and/or Third-Party Claim, if any, to a panel of no less than three (3) arbitrators in accordance with

Rule 1810 of this Code, or he may dismiss the Counterclaimant(s) and/or Third-Party Claimant(s) pursuing the Counter-Claim and/or Third-Party Claim, without prejudice to the Counterclaimant(s) and/or Third-Party Claimant(s) pursuing the Counter-Claim and/or Third-Party Claim in a separate proceeding. The costs to the Claimant under either proceeding shall in no event exceed the total amount specified in Rule 1832.

(e) All parties shall serve promptly by mail or otherwise on all other parties and the Director of Arbitration, with sufficient additional copies for the arbitrators, a copy of the Answer, Counter-Claim, Third-Party Claim or other responsive pleading, if any. The Claimant, if a Counter-Claim is asserted against him, shall within ten (10) calendar days either:

(1) serve on each party and on the Director of Arbitration, with sufficient additional copies for the arbitrators, a Reply to any Counter-Claim, or

(2) if the amount of the Counter-Claim exceeds the Claim, shall have the right to file a statement withdrawing the Claim. If the Claimant withdraws the Claim, the proceedings will be discontinued without prejudice to the rights of the parties.

(f) The dispute, claim or controversy shall be submitted to a single public arbitrator knowledgeable in the securities industry who is selected by the Director of Arbitration. Unless the Public Customer demands or consents to a hearing, or the arbitrator calls a hearing, the arbitrator shall decide the dispute, claim or controversy solely upon the pleadings and evidence filed by the parties. If a hearing is necessary, such hearing shall be held as soon as practicable at a locale selected by the Director of Arbitration.

(g) The Director of Arbitration may grant extensions of time to file any pleading upon a showing of good cause.

(h)(1) The arbitrator shall be authorized to require the submission of further documentary evidence as he, in his sole discretion, deems advisable.

(2) If a hearing is demanded or consented to in accordance with paragraph (f) of this Rule, the General Provisions Governing a Pre-Hearing proceeding under Rule 1822 shall apply.

(3) If no hearing is demanded or consented to, all requests for document production shall be submitted in writing to the Director of Arbitration within ten (10) business days of notification of the identity of the arbitrator selected to decide the case. The requesting party shall serve simultaneously its requests for document production on all parties. Any response or objection to the requested document production shall be served on all parties and filed with the Director of Arbitration within five (5) business days of receipt of the request for production. The selected arbitrator shall resolve all requests under this paragraph on the papers submitted.

(i) Upon the request of the arbitrator, the Director of Arbitration shall appoint two (2) additional arbitrators to the panel that shall decide the matter in controversy.

(j) In any case where there is more than one (1) arbitrator, the majority will be public arbitrators.

(k) In his discretion, the arbitrator may, at the request of any party, permit such party to submit additional documentation relating to the pleadings.

(l) Except as otherwise provided herein, the general arbitration rules of the Exchange shall be applicable to proceedings instituted under this Rule.

Hearing Requirements

Rule 1805. Waiver of Hearing

(a) Any dispute, claim or controversy, except as provided in Rule 1804, shall require a hearing unless all parties waive such hearing in writing and request that the matter be resolved solely upon the pleadings and documentary evidence.

(b) Notwithstanding a written waiver of a hearing by the parties, a majority of the arbitrators may call for and conduct a hearing. In addition, any arbitrator may request the submission of further evidence.

Rule 1806. Time Limitation Upon Submission

No dispute, claim or controversy shall be eligible for submission to arbitration under this Code where six (6) years shall have elapsed from the occurrence or event giving rise to the act or the dispute, claim or controversy. This section shall not extend applicable statutes of limitations, nor shall it apply to any case which is directed to arbitration by a court of competent jurisdiction.

Rule 1807. Dismissal or Termination Proceedings

At any time during the course of an arbitration, the arbitrators may, either upon their own initiative or at the request of a party, dismiss the proceeding and refer the parties to the remedies provided by law. The arbitrators shall, upon the joint request of the parties, dismiss the proceeding.

Rule 1808. Settlements

All settlements upon any matter submitted shall be at the election of the parties.

Rule 1809. Institution of Legal Proceedings and Extension of Time Limitation(s) for Submission to Arbitration

(a) Where permitted by law, the time limitation(s) that would otherwise run or accrue for the institution of legal proceedings shall be tolled when a duly executed Submission Agreement is filed by the Claimant(s). The tolling shall continue for such period as the Exchange shall retain jurisdiction upon the matter submitted.

(b) The six (6) year time limitation upon submission to arbitration shall not apply when the parties have submitted the dispute, claim or controversy to a court of competent jurisdiction. The six (6) year time limitation shall not run for such period as the court shall retain jurisdiction upon the matter submitted.

Rule 1810. Designation of Number of Arbitrators

(a)(1) In all arbitration matters involving Public Customers and non-members where the amount in controversy exceeds $10,000, or where the matter in controversy does not involve or disclose a money claim, the Director of Arbitration shall appoint an arbitration panel that shall consist of no less than three (3) arbitrators, at least a majority of whom shall not be from the securities industry, unless the Public Customer or non-member requests a panel consisting of at least a majority from the securities industry.

(2) An arbitrator will be deemed as being from the securities industry if he or she:

(i) is a person associated with a Member, broker-dealer, government securities broker, government securities dealer, municipal securities dealer, or register investment adviser; or

(ii) has been associated with any of the above within the past (5) years; or

(iii) is retired from or spent a substantial part of his or her business career in any of the above; or

(iv) is an attorney, accountant or other professional who has devoted twenty (20) percent or more of his or her professional work effort to securities industry clients within the last two (2) years.

(v) is an individual who is registered under the Commodities Exchange Act or is a member of a registered futures association or any commodities exchange or is associated with any such person(s).

(3) An arbitrator who is not from the securities industry shall be deemed a public arbitrator. A person will not be classified as a public arbitrator if he or she has a spouse or other member of the household who is a person associated with a registered broker, dealer, municipal securities dealer,

government securities broker, government securities dealer, or investment adviser.

(4) The following will apply with regard to the classification of securities industry and public arbitrators and to the exercise of challenges for cause:

(i) Individuals with close securities industry ties such as attorneys, accountants or other professionals who routinely represent industry firms or individuals, will either be reclassified as industry arbitrators or not be used.

(ii) Individuals who have spent a substantial part of their business careers in the securities industry shall always be classified as industry arbitrators.

(iii) Individuals who have spent a relatively minor portion of their career in the securities industry shall not be classified as public arbitrators until at least five (5) years have elapsed from the date of their last industry affiliation. All such past affiliations shall be disclosed and challenges for cause based upon such past affiliations shall be sustained.

(iv) Close family relationships with broker/dealers shall be disclosed and challenges for cause based on such relationships shall be sustained.

(v) Attorneys, accountants and other professionals whose firms have close securities industry ties will still be classified as public arbitrators provided the attorney or other professional does not routinely represent industry firms or individuals. Challenges for cause based on such industry ties will be sustained.

(vi) All arbitrators shall read and become familiar with the Code of Ethics for Arbitrators developed by the American Bar Association and the American Arbitration Association.

(vii) Any close question on arbitrator classification or on challenges for cause shall be decided in favor of Public Customers.

(viii) Spouses of securities industry personnel may not serve as public arbitrators.

(b) *Composition of Panels.* The individuals who shall serve on a particular arbitration panel shall be determined by the Director of Arbitration. The Director of Arbitration may name the chairman of each panel.

Rule 1811. Notice of Selection of Arbitrator(s)

(a) The Director of Arbitration shall inform the parties of the names and employment histories of the arbitrator(s) for the past ten (10) years, as well as information disclosed pursuant to Rule 1813, at least eight (8) business days prior to the date fixed for the initial hearing session. A party may make further inquiry of the Director of Arbitration concerning an arbitrator's background.

(b) In the event that any arbitrator, after appointment and prior to the first hearing session, should resign, die, withdraw, be disqualified or otherwise be unable to perform as an arbitrator, the Director of Arbitration shall appoint a new member to the panel to fill any vacancy. The Director of Arbitration shall inform the parties of the name and employment history of the replacement arbitrator for the past ten (10) years, as well as information disclosed pursuant to Rule 1813, as soon as possible. A party may make further inquiry of the Director of Arbitration concerning the background of replacement arbitrator(s) and within the time remaining prior to the first hearing session or the five (5) day period provided under Rule 1812, whichever is shorter, may exercise its right to challenge the replacement arbitrator as provided in Rule 1812.

Rule 1812. Challenges

In any arbitration proceeding, each party shall have the right to one (1) peremptory challenge. In arbitrations where there are multiple Claimants, Respondents and/or Third-Party Respondents, the Claimants shall have one (1) peremptory challenge, the Respondents shall have one (1) peremptory challenge, and the Third-Party Respondents shall have one (1) peremptory challenge, unless the Director of Arbitration determines that the interests of justice would best be served by awarding additional peremptory challenges. Unless extended by the Director of Arbitration, a party wishing to exercise a peremptory challenge must do so by notifying the Director of Arbitration in writing within five (5) business days of notification of the identity of the person(s) named under Rule 1811 or Rule 1822 (d) or (e), whichever comes first. There shall be unlimited challenges for cause.

Rule 1813. Disclosures Required of Arbitrators

(a) Each arbitrator shall be required to disclose to the Director of Arbitration any circumstances which might preclude such arbitrator from rendering an objective and impartial determination. Each arbitrator shall disclose:

(1) Any direct or indirect financial or personal interest in the outcome of the arbitration.

(2) Any existing or past financial, business, professional, family or social relationships that are likely to affect impartiality or which might reasonably create an appearance of partiality or bias. Persons requested to serve as arbitrators should disclose any such relationships that they personally have with any party or its counsel, or with any individual whom they have been told will be a

witness. They should also disclose any such relationship involving members of their families or their current employers, partners or business associates.

(b) Persons who are requested to accept appointment as arbitrators should make a reasonable effort to inform themselves of any interests or relationships described in paragraph (a) above.

(c) The obligation to disclose interests, relationships, or circumstances which might preclude an arbitrator from entering an objective and impartial determination described in paragraph (a) hereof is a continuing duty which requires a person who accepts appointment as an arbitrator to disclose, at any stage of the arbitration, any such interests, relationships, or circumstances which arise, or which are recalled or discovered.

(d) Prior to the commencement of the first hearing session, the Director of Arbitration may remove an arbitrator based on information disclosed pursuant to this section. The Director of Arbitration shall also inform the parties of any information disclosed pursuant to this section if the arbitrator who disclosed the information is not removed.

Rule 1814. Disqualification or Other Disability of Arbitrators

(a) In the event that any arbitrator, after the commencement of the first hearing session and prior to the rendition of the award, should resign, die, withdraw, be disqualified or otherwise be unable to perform as an arbitrator, the remaining arbitrator(s) may continue with the hearing and determination of the controversy, unless such continuation is objected to by any party within five (5) days of notification of such resignation, death, withdrawal, disqualification, or other inability.

(b) Upon objection, the Director of Arbitration shall appoint a new member to the panel to fill any vacancy. The Director of Arbitration shall inform the parties as soon as possible of the name and employment history of the replacement arbitrator pursuant to Rule 1811, as well as any other information disclosed pursuant to Rule 1813. A party may make further inquiry of the Director of Arbitration concerning the replacement arbitrator's background and within the time remaining prior to the next scheduled hearing session or the five (5) day period provided under Rule 1812, whichever is shorter, may exercise its right to challenge the replacement arbitrator as provide in Rule 1812.

Rule 1815. Initiation of Proceedings

Except as otherwise provided herein, an arbitration proceeding under this Code shall be instituted as follows:

(a) *Statement of Claim.* The Claimant shall file with the Director of Arbitration an executed Submission Agreement, a Statement of Claim, together with documents in support of the Claim, and the required non-refundable filing fee and hearing session deposit set forth under Rule 1832. Sufficient additional copies of the

Submission Agreement and the Statement of Claim and supporting documents shall be provided to the Director of Arbitration for each party and for each arbitrator(s). The Statement of Claim shall specify the relevant facts and the remedies sought. The Director of Arbitration shall endeavor to server promptly by mail or otherwise on the Respondent(s) one (1) copy of the Submission Agreement and one (1) copy of the Statement of Claim,

(b) *Service and Filing with Director of Arbitration*. For the purposes of the Code of Arbitration Procedure, service may be effected by mail or other means of delivery. Service and filing are accomplished on the date of mailing either by first-class postage pre-paid or by means of overnight mail service, or in the case of other means of service, on the date of delivery. Filing with the Director of Arbitration shall be made on the same date as service.

(c) *Answer-Defenses, Counter-Claims and or Cross-Claims*

(1) Within twenty (20) business days from receipt of the Statement of Claim, the Respondents(s) shall serve each party with an executed Submission Agreement and a copy of the Respondent's Answer. Respondent's executed Submission Agreement and Answer shall also be filed with the Director of Arbitration with sufficient additional copies for the arbitrator(s), along with any forum fees required under Rule 1832. The Answer shall specify all available defenses and relevant facts that will be relied upon at the hearing and may set forth any related Counter-Claim the Respondent(s) may have against the Claimant, any Cross-Claim the Respondent(s) may have against any other named Respondent(s), and any Third-Party Claim against any other party or person based upon any existing dispute, claim or controversy subject to arbitration under this Code.

(2)(i) A Respondent, Responding Claimant, Cross-Claimant, Cross-Respondent or Third Party Respondent who pleads only a general denial as an answer may, upon objection by a party, in the discretion of the arbitrator(s), be barred from presenting any facts or defenses at the time of the hearing.

(ii) A Respondent, Responding Claimant, Cross-Claimant, Cross-Respondent or Third-Party Respondent who fails to specify all available defenses and relevant facts in such party's Answer, may, upon objection by a party, in the discretion of the arbitrator(s), be barred from presenting the facts or defenses not included in such party's Answer at the hearing.

(iii) A Respondent, Responding Claimant, Cross-Claimant, Cross-Respondent or Third-Party Respondent who fails to file an Answer within twenty (20) business days from receipt of service of a claim, unless the time to Answer has been extended pursuant to paragraph (c)(5), may, in the discretion of the arbitrators, be barred from presenting any matter, arguments or defenses at the hearing.

(3) Respondent(s) shall serve each party with a copy of any Third-Party Claim. The Third-Party Claim shall also be filed with the Director of Arbitration with sufficient additional copies for the arbitrator(s), along with any forum fees required under Rule 1832. Third Party Respondent(s) shall answer in the manner provided for response to the Claim, as provided in (c)(1) and (2) above.

(4) The Claimant shall serve each party with a reply to a Counter-Claim within ten (10) business days of the receipt of an Answer containing a Counter-Claim. The reply shall also be filed with the Director of Arbitration with sufficient additional copies for the arbitrator(s).

(5) The Director of Arbitration may extend any time period in this section whether such be denominated as a Claim, Answer, Counter-Claim, Cross-Claim, Reply or Third-Party pleading.

(d) *Joining and Consolidation – Multiple Parties.*

(1) Permissive Joinder. All persons may join in one action as Claimants if they assert any right to relief jointly, severally, or arising out of the same transaction, occurrence or series of transactions or occurrences and if any questions of law or fact common to all these Claimants will arise in the action. All persons may be joined in one action as Respondents if there is asserted against them jointly or severally, any right to relief arising out of the same transaction, occurrence, or series of transactions or occurrences and if any questions of law or fact common to all Respondents will arise in the action. A Claimant or Respondent need not assert rights to or defend all the relief demanded. Judgment may be given for one or more of the Claimants according to their respective rights to relief, and against one or more Respondents according to the respective liabilities.

(2) In arbitrations where there are multiple Claimants, Respondents and/or Third-Party Respondents, the Director of Arbitration shall be authorized to determine preliminarily whether such parties should proceed in the same or separate arbitrations. Such determination will be considered subsequent to the filing of all responsive pleadings.

(3) The Director of Arbitration shall be authorized to determine preliminarily whether claims filed separately are related and shall be authorized to consolidate such claims for hearing and award purposes.

(4) Further determinations with respect to joining, consolidation and multiple parties under this subsection may be made by the arbitration panel and shall be deemed final.

Rule 1816. Designation of Time and Place of Hearing

Unless the law directs otherwise, the time and place for the initial hearing shall be determined by the Director of Arbitration and each hearing thereafter by the arbitrators. Notice of the time and place for the initial hearing shall be given at least eight (8) business days prior to the date fixed for the hearing by personal service, registered or certified mail to each of the parties unless the parties shall, by their mutual consent, waive the notice provisions under this section. Notice for each hearing, thereafter, shall be given as the arbitrators may determine. Attendance at a hearing waives notice thereof.

Rule 1817. Representation by Counsel

All parties shall have the right to representation by counsel at any stage of the proceedings.

Rule 1818. Attendance at Hearings

The attendance or presence of all persons at hearings, including witnesses, shall be determined by the arbitrators. However, all parties to the arbitration and their counsel shall be entitled to attend all hearings.

Rule 1819. Failure to Appear

If any of the parties, after due notice, fails to appear at a hearing or at any continuation of a hearing, the arbitrators may, in their discretion, proceed with the arbitration of the controversy. In such cases all awards shall be rendered as if each party has entered an appearance in the matter submitted.

Rule 1820. Adjournments

(a) The arbitrators may, in their discretion, adjourn any hearing(s) either upon their own initiative or upon the request of any party to the arbitration.

(b) Unless waived by the Director of Arbitration, a party requesting an adjournment after arbitrators have been appointed shall deposit with the request for an adjournment, a fee equal to the initial deposit of hearing deposit fees for the first adjournment and twice the initial deposit of hearing deposit fees, not to exceed $1,000, for a second or subsequent adjournment requested by that party. If the adjournment is not granted, the deposit shall be refunded. If the adjournment is granted, the arbitrator(s) may direct the return of the adjournment fee.

(c) Upon receiving a third request consented to by all parties for an adjournment, the arbitrators may dismiss the arbitration without prejudice to either party. The Claimant may then file a new arbitration.

Rule 1821. Acknowledgement of Pleadings

The arbitrators shall acknowledge to all parties present that they have read the pleadings filed by the parties.

Rule 1822. General Provisions Governing Pre-Hearing Proceeding

(a) *Requests for Documents and Information.* The parties shall cooperate to the fullest extent practicable in the voluntary exchange of documents and information to expedite the arbitration. Any request for documents or other information should be specific, relate to the matter in controversy, and afford the party to whom the request is made a reasonable period of time to respond without interfering with the time set for the hearing.

(b) *Document Production and Information Exchange.*

(1) Any party may serve a written request for information or documents ("information request") upon another party twenty (20) business days or more after service of the Statement of Claim by the Director of Arbitration or upon filing of the Answer, whichever is earlier. The requesting party shall serve the information request on all parties and file a copy with the Director of Arbitration. The parties shall endeavor to resolve disputes regarding an information request prior to serving any objection to the request. Such efforts shall be set forth in the objection.

(2) Unless a greater time is allowed by the requesting party, information requests shall be satisfied or objected to within thirty (30) calendar days from the date of service. Any objection to an information request shall be served by the objecting party on all parties and filed with the Director of Arbitration.

(3) Any response to objections to information requests shall be served on all parties and filed with the Director of Arbitration within ten (10) calendar days of receipt of the objection.

(4) Upon the written request of a party whose information request is unsatisfied, the matter will be referred by the Director of Arbitration to either a pre-hearing conference under paragraph (d) of this Rule or to a selected arbitrator under paragraph (e) of the Rule.

(c) *Pre-Hearing Exchange*

(1) At least twenty (20) calendar days prior to the first scheduled hearing date, all parties shall serve on each other copies of documents in their possession that they intend to present at the hearing. The parties may provide a list of those documents that have already been produced pursuant to the other provisions of Rule 1822 in lieu of the actual documents. A list of such documents

served under this paragraph shall be served on the Director of Arbitration at the same time and in the same manner as service on the parties.

(2) In addition, at least twenty (20) calendar days prior to the first scheduled hearing date, the parties also shall serve on each other a list identifying witnesses they intend to present at the hearing by name, address and business affiliation. A copy of the list of witnesses shall be served on the Director of Arbitration at the same time and in the same manner as service on the parties.

(3) The arbitrator(s) may exclude from the arbitration any documents not exchanged or identified or witnesses not identified in accordance with the requirements of this paragraph (c). This paragraph does not require service of copies of documents or identification of witnesses that parties may use for cross-examination or rebuttal.

(d) *Pre-Hearing Conference.*

(1) Upon the written request of a party, an arbitrator, or at the discretion of the Director of Arbitration, a pre-hearing conference shall be scheduled. The Director of Arbitration shall set the time and place of a pre-hearing conference and appoint a person to preside. The pre-hearing conference may be held by telephone conference call. The presiding person shall seek to achieve agreement among the parties on any issues that relate to the pre-hearing process or to the hearing, including but not limited to, the exchange of information, exchange or production of documents, identification of witnesses, identification and exchange of hearing documents, stipulations of facts, identification and briefing of contested issues and any other matters that will expedite the arbitration proceedings.

(2) Any issues raised at the pre-hearing conference that are not resolved may be referred by the Director of Arbitration to a single member of the Arbitration Panel for decision.

(e) *Decisions by Selected Arbitrator*.

The Director of Arbitration may appoint a single member of the Arbitration Panel to decide all unresolved issues referred to under this Rule. In matters involving Public Customers, such single arbitrator shall be a public arbitrator except the arbitrator may be either public or industry when the Public Customer has requested a panel consisting of a majority from the securities industry. Such arbitrator shall be authorized to act on behalf of the panel to issue subpoenas, direct appearances of witnesses and production of documents, set deadlines for compliance and issue any other ruling that will expedite the arbitration proceeding or is necessary to permit any party to develop fully its case. Decisions under this paragraph shall be made upon the papers submitted by the parties, unless the arbitrator calls a hearing. The arbitrator may elect to refer any issue under this paragraph to the full panel.

(f) *Subpoena*.

The arbitrator(s) and any counsel of record to the proceeding shall have the power of the subpoena process as provided by law. All parties shall be given a copy of the subpoena upon its issuance. However, the parties shall produce witnesses and present proofs to the fullest extent possible without resort to the subpoena process.

(g) *Power to Direct Appearances and Production of Documents*

The arbitrator(s) shall be empowered without resort to the subpoena process to direct the appearance of any Member or person employed by or associated with any Member or Member Organization of the Exchange, and/or the production of any records in the possession or control of such persons, Members or Member Organizations. Unless the arbitrator(s) direct otherwise, the party requesting the appearance of a person or the production of documents under this section shall bear all reasonable costs of such appearance and/or production.

Rule 1823. Evidence

The arbitrator(s) shall determine the materiality and relevance of any evidence proffered and shall not be bound by rules governing the admissibility of evidence.

Rule 1824. Interpretation of Code and Enforcement of Arbitrator Rulings

The arbitrator(s) shall be empowered to interpret and determine the applicability of all provisions under this Code and to take appropriate action to obtain compliance with any ruling by the arbitrator(s). Such interpretations and actions to obtain compliance shall be final and binding upon the parties.

Rule 1825. Determinations of Arbitrators

All rulings and determinations of the panel shall be by a majority of the arbitrators.

Rule 1826. Record of Proceedings

A verbatim record by stenographic reporter or tape recording of all arbitration hearings shall be kept. If a party or parties to a dispute elect to have the record transcribed, the cost of such transcription shall be borne by the party or parties making the request unless the arbitrators direct otherwise. The arbitrators may also direct that the record be transcribed. if the record is transcribed at the request of any party, a copy shall be provided to the arbitrators.

Rule 1827. Oaths of the Arbitrators and Witnesses

Prior to the commencement of the first session, an oath or affirmation shall be administered to the arbitrators. All testimony shall be under oath or affirmation.

Rule 1828. Amendments

(a) After the filing of any pleadings, if a party desires to file a new or different pleading, such change must be made in writing and filed with the Director of Arbitration with sufficient additional copies for each arbitrator. The party filing a new or different pleading shall serve on all other parties a copy of the new or different pleading in accordance with the provisions set forth in Rule 1815(b). The other parties may, within ten (10) days from the receipt of service, file a response with the Director of Arbitration, with sufficient additional copies for each arbitrator, in accordance with Rule 1815(b).

(b) After a panel has been appointed, no new or different pleading may be filed except for a responsive pleading as provided for in (a) above or with the panel's consent.

Rule 1829. Reopening of Hearings

Where permitted by law, the hearings may be reopened by the arbitrators on their own motion or in the discretion of the arbitrators upon the application of a party at any time before the award is rendered.

Rule 1830. Awards

(a) All awards shall be in writing and signed by a majority of the arbitrators or in such manner as is required by law. Such awards may be entered as a judgement in any court of competent jurisdiction.

(b) Unless the law directs otherwise, all awards rendered pursuant to this Code shall be deemed final and not subject to review or appeal.

(c) The Director of Arbitration shall endeavor to serve a copy of the award:

(1) by registered or certified mail upon all parties, or their counsel, at the address of record;

(2) by personally serving the award upon the parties; or

(3) by filing or delivering the award in such manner as may be authorized by law.

(d) The arbitrator(s) shall endeavor to render an award within thirty (30) business days from the date the record is closed.

(e) The award shall contain the names of the parties, the name(s) of counsel, if any, a summary of the issues, including the type(s) of any security or product, in controversy, the damages and/or other relief requested, the damages and/or other relief awarded, a statement of any other issues resolved, the names of the arbitrators, the date that the claim was filed and the award rendered, the numbers and dates of hearing sessions, the locations of the hearing(s) and the signatures of the arbitrators concurring in the award.

(f) The awards shall be made publicly available provided, however, that the name of any customer party to the arbitration will not be publicly available if he or she so requests in writing.

(g) All monetary awards shall be paid within thirty (30) days of receipt unless a motion to vacate has been filed with a court of competent jurisdiction. If such a motion has been filed, either party may request the President to direct that the award be paid to an escrow account maintained by the Exchange. Such request shall be filed with the Secretary of the Exchange within thirty-five (35) days of receipt of such award.

(h) An award shall bear interest from the date of the award:

(1) if not paid within thirty (30) days of receipt;

(2) if the award is the subject of a motion to vacate that is denied; or

(3) as specified by the arbitrator(s) in the award.

(i) Interest shall be assessed at the legal rate, if any, then prevailing in the state where the award was rendered, or at a rate set by the arbitrator(s).

Rule 1831. Miscellaneous

This Code shall be deemed a part of and incorporated by reference in every duly-executed Submission Agreement, which shall be binding on all parties.

Rule 1832. Schedule of Fees

(a) At the time of filing a Claim, Counter-Claim, Third-Party Claim or Cross-Claim, a party shall pay a non-refundable filing fee and shall remit a hearing session deposit to the Exchange in the amounts indicated in the schedules below unless such fee or deposit is specifically waived by the Director of Arbitration.

(1) Where multiple hearing sessions are required, the arbitrator(s) may require any of the parties to make additional hearing deposits for each additional hearing session. In no event shall the amount deposited by all parties per additional hearing session exceed the amount of the largest initial hearing deposit made by any party under the schedule below.

(2) A hearing session is any meeting between the parties and the arbitrator(s), including a pre-hearing conference with an arbitrator, that lasts four (4) hours or less. The forum fee for a pre-hearing conference with a single arbitrator shall be the amount set forth in the schedules below.

(b) The arbitrator(s), in the award, may determine the amount chargeable to the parties as forum fees and shall determine who shall pay such forum fees. Forum fees are assessed to the parties on a per hearing session basis. The aggregate of the forum fee for each hearing session may equal but shall not exceed the amount of the largest initial hearing deposit deposited by any party, except in a case where claims have been joined subsequent to filing, in which cases hearing session fees shall be computed as provided in paragraph (c). The arbitrators may determine in the award that a party shall reimburse to another party any non-refundable filing fee it has paid.

(1) If a customer is assessed forum fees in connection with a Member claim, forum fees assessed against the customer shall be based on the hearing deposit required under the Member claims schedule for the amount awarded to Member parties to be paid by the customer and not based on the size of the Member claim. No fees shall be assessed against a customer in connection with a Member claim that is dismissed; however in cases where there is also a customer claim, the customer may be assessed forum fees based on the customer claim under the procedure set out above.

(2) Amounts deposited by a party as hearing deposits shall be applied against forum fees, if any.

(3) In addition to forum fees, the arbitrator(s) may determine in the award the amount of costs incurred pursuant to Rules 1820, 1822 and 1826 and, unless applicable law directs otherwise, other costs and expenses of the parties. The arbitrator(s) shall determine by whom such costs shall be borne. If the hearing session fees are not assessed against a party who had made a hearing deposit, the hearing deposit will be refunded unless the arbitrators determine otherwise

(c) For claims filed separately and subsequently joined or consolidated under Rule 1815(d), the hearing deposit and forum fees assessable per hearing session after joinder or consolidations shall be based on the cumulative amount in dispute. The arbitrator(s) shall determine by whom such forum fees shall be borne.

(d) If the dispute, claim or controversy does not involve, disclose or specify a money claim, the non-refundable filing fee will be $250 and the hearing session deposit to be remitted by a party shall be $600 or such greater or lesser amounts as the Director of Arbitration or the panel of arbitrators may require, but shall not exceed $1,500.

(e) The Exchange shall retain the total initial hearing session amount deposited by all parties in any matter submitted and settled or withdrawn within eight (8)

business days of the first scheduled hearing session other than a pre-hearing conference.

(f) Any matter submitted and thereafter settled or withdrawn subsequent to the commencement of the first hearing session including a pre-hearing conference with an arbitrator, shall be subject to an assessment of forum fees and costs incurred pursuant to Rules 1820, 1822 and 1826 based on hearing session(s) held and scheduled within eight (8) business days of the Exchange receiving notice that the matter has been settled or withdrawn. The arbitrator(s) shall determine by whom such forum fees and costs shall be borne.

(g) Schedule of Fees. For purposed of the schedule of fees the term claim includes Claims, Counter-Claims, Third-Party Claims or Cross-Claims. Any such claim involving a customer and a Member or person associated with a Member is a customer claim. Any such claim submitted by a Member or person associated with a Member against another Member is a Member claim.

CUSTOMER CLAIM FEE SCHEDULE

Amount of Dispute (Exclusive of Interest and Expenses)	**Filling Fees**	**Pre-Hearing Conferenc e Fee**	**HEARING DEPOSIT FEE PER SESSION**	
			Simplified	Hearing
$1,000 or less..........................	$ 15	$ 15	$15	$ 15
$1,001 to $2,500........................	$ 25	$ 25	$25	$ 25
$2,501 to $5,000........................	$ 50	$100	$75	$ 100
$5001 to $10,000........................	$ 75	$200	$75	$ 200
$10,001 to $30,000.....................	$100	$300	N/A	$ 400
$30,001 to $50,000....................	$120	$300	N/A	$ 400
$50,001 to $100,000...................	$150	$300	N/A	$ 500
$100,001 to $500,000..................	$200	$300	N/A	$ 750
$500,001 to $5,000,000................	$250	$300	N/A	$1,000
Over $5,000,000........................	$300	$300	N/A	$1,500

MEMBER CLAIM FEE SCHEDULE

Amount of Dispute (Exclusive of Interest and Expenses)	**Filling Fees**	**Pre-Hearing Conference Fee**	**Hearing Deposit Fee Per Session**
$1,000 or less..........................	$ 75	$ 15	$ 600
$1,000 to $2,500......................	$ 75	$ 25	$ 600
$2,501 to $5,000......................	$ 100	$100	$ 600
$5,001 to $10,000....................	$ 500	$200	$ 600
$10,001 to $30,000..................	$ 500	$300	$ 600
$30,001 to $50,000..................	$ 500	$300	$ 600
$50,001 to $100,000................	$ 500	$300	$ 600
$100,001 to $500,000.............	$ 750	$500	$ 750
$500,001 to $1,000,000...........	$1000	$500	$1,000
Over $1,000,000......................	$1500	$500	$1,500

Rule 1833. Requirements when Using Pre-Dispute Arbitration Agreements with Customers

(a) Any pre-dispute arbitration clause shall be highlighted and shall be immediately preceded by the following disclosure language (printed in outline form as set forth herein), which shall also be highlighted:

(1) Arbitration is final and binding on the parties.

(2) The parties are waiving their right to seek remedies in court, including the right to jury trial.

(3) Pre-arbitration discovery is generally more limited than and different from court proceedings.

(4) The arbitrators' award is not required to include factual findings or legal reasoning and any party's right to appeal or to seek modification of rulings by the arbitrators is strictly limited.

(5) The panel of arbitrators will typically include a minority of arbitrators who were or are affiliated with the securities industry.

(b) Immediately preceding the signature line, there shall be a statement which shall be highlighted that the agreement contains a pre-dispute arbitration clause.

This statement shall also indicate at what page and paragraph the arbitration clause is located.

(c) A copy of the agreement containing any such clause shall be given to the customer who shall acknowledge receipt thereof on the agreement or on a separate document.

(d) No agreement shall include any condition that limits or contradicts the rules of any SRO or limits the ability of a party to file any claim in arbitration or limits the ability of the arbitrators to make any awards.

(e) All agreements shall include a statement that:

> "No person shall bring a putative or certified class action to arbitration, nor seek to enforce any pre-dispute arbitration agreement against any person who has initiated in court a putative class action; who is a member of a putative class who has not opted out of the class with respect to any claims encompassed by the putative class action until:
>
> (i) the class certification is denied; or
>
> (ii) the class is decertified; or
>
> (iii) the customer is excluded from the class by the court.

Such forbearance to enforce an agreement to arbitrate shall not constitute a waiver of any rights under this agreement except to the extent stated herein."

(f) The requirements of paragraphs (a) through (d) of this Rule shall apply only to new agreements signed by an existing or new customer of a Member or Member Organization after September 7, 1989. The requirements of paragraph (e) shall apply only to new agreements signed by an existing or new customer or a Member or Member Organization after January 23, 1996.

Rule 1834. Failure to Honor Award

Any Member, or person associated with a Member, who fails to honor an award of arbitrators appointed in accordance with the Rules in this Chapter 18 shall be subject to disciplinary proceedings in accordance with Chapter 16 (Discipline).

Rule 1835. Arbitration Functions

The Exchange may contract with another SRO to perform some or all of the arbitration functions specified in this Chapter. In that event, the Exchange shall specify to what extent the Rules in this Chapter shall govern Exchange arbitrations and to what extent the rules of the other SRO shall govern such arbitrations. Notwithstanding the fact that the Exchange may contract with another SRO to perform

some or all of the Exchange's disciplinary functions, the Exchange shall retain ultimate legal responsibility for and control of such functions.

[Chapter 18 adopted February 24, 2000; amendment pending (SR-ISE-00-17).]