

# INTERNATIONAL SECURITIES EXCHANGE RULES

(Updated as of February 16, 2007)

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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 XIII of the Constitution of ISE, LLC (the "Constitution") and not otherwise defined in this Chapter shall have the meaning assigned in Article XIII 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, except that with respect to an Equity Security, it means an order to buy such security.

(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 except that when used in reference to Equity Securities (as that term is defined in Rule 2100), the term means a securities clearing agency that is registered as such with the SEC under Section 17A of the Exchange Act and maintains facilities through which transactions in such securities may be compared or settled.



(8) The term “**Clearing Member**” means a Member that is self-clearing or an Electronic Access Member that clears Exchange Transactions for other Members of the Exchange.

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

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

(11) The term “**CMM Rights**” has the meaning set forth in Article VI of the LLC Agreement.

(12) 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.

(13) 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.

(14) The term “**EAM Rights**” has the meaning set forth in Article VI of the LLC Agreement.

(15) 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.

(16) The term “**Exchange Act**” means the Securities Exchange Act of 1934 and the rules and regulations thereunder, as amended from time to time.

(17) The term “**Exchange Rights**” means the PMM Rights, CMM Rights and EAM Rights collectively.

(18) 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.

(19) The term “**Federal Reserve Board**” means the Board of Governors of the Federal Reserve System.

(20) 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.

(21) The term “**long position**” means a person’s interest as the holder of one or more options contracts.

(22) The term “**LLC Agreement**” means the Limited Liability Company Agreement of the Exchange, dated as of November 18, 2004, as amended from time to time.

(23) The term “**Member**” means an organization that has been approved to exercise trading rights associated with Exchange Rights.

(24) The term “**Membership**” refers to the trading privileges associated with Exchange Rights.

(25) The term “**market makers**” refers to “Competitive Market Makers” and “Primary Market Makers” collectively.

(26) The term “**Market Maker Rights**” refers to PMM Rights and CMM Rights collectively.

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

(28) The term “**Non-Customer Order**” means any order that is not a Public Customer Order as defined in subparagraph (39) below.

(29) The term “**offer**” means a quote or limit order to sell one or more options contracts, except that with respect to an Equity Security (as that term is defined in Rule 2100), it means an order to sell such security.

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

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

(32) 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.

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

(34) The term “**order**” means a commitment to buy or sell securities as defined in Rule 715 for options and Rule 2104 for Equity Securities (as that term is defined in Rule 2100).

(35) 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.

(36) The term “**PMM Rights**” has the meaning set forth in Article VI of the LLC Agreement.

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

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

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

(40) 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.

(41) The term “**Quarterly Options Series**” means a series in an options class that is approved for listing and trading on the Exchange in which the series is opened for trading on any business day and that expires at the close of business on the last business day of a calendar quarter.

(42) 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.

(43) 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.

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

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

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

(47) The term “**Short Term Option Series**” means a series in an option class that is approved for listing and trading on the Exchange in which the series is opened for trading on any Friday that is a business day and that expires on the next Friday that is a business day. If a Friday is not a business day, the series may be opened (or shall expire) on the first business day immediately prior to that Friday.

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

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

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

(51) 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.

[Adopted February 24, 2000; amended May 1, 2002 (SR-ISE-2002-01); amended July 12, 2005 (SR-ISE-2005-17); amended April 21, 2006 (SR-ISE-2006-04); amended July 10, 2006 (SR-ISE-2006-24); amended September 28 (SR-ISE-2006-48).]

## 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 in the Constitution, or established by the Chief Executive Officer pursuant to authority delegated to him by the Board.

[Adopted February 24, 2000; amended May 1, 2002 (SR-ISE-2002-01).]

#### **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's trading privileges 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.

[Adopted February 24, 2000; amended May 1, 2002 (SR-ISE-2002-01).]

**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. Market Maker Rights**

(a) Market Maker Rights may be owned by (i) registered broker-dealers approved as Members of the Exchange according to the requirements contained in this Chapter 3 or (ii) individuals and organizations that are not Members of the Exchange or that are otherwise Members, but do not seek to exercise trading privileges associated with such Rights (collectively “non-member owners”).

(b) Non-member owners shall not be permitted to exercise trading privileges on the Exchange with respect to such Rights, and are not considered Members of the Exchange with respect to such Rights for any purposes of these Rules. Non-member owners of Market Maker Rights shall lease the trading privileges associated with the Rights (i.e., the “Membership”) to registered broker-dealers approved by the Exchange as Members.

(c) Every non-member owner of Market Maker Rights shall submit a non-member owner application in the form and manner prescribed by the Exchange. Non-member owner applications must be accompanied by a non-refundable application fee. Approved non-member owner applicants must complete the transfer of Market Maker Rights to the applicant within ninety (90) days of the date of approval by the Exchange. Should an approved applicant fail to complete the transfer of a Market Maker Right within ninety (90) days, its approval shall expire unless an extension is granted by the Exchange based on a showing that a transfer is pending or near completion.

[Adopted February 24, 2000; renumbered and amended May 1, 2002 (SR-ISE-2002-01); amended April 21, 2006 (SR-ISE-2006-04).]

#### **Rule 301. Qualification of Members**

(a) A Member of the Exchange may be a corporation, partnership, or LLC. 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.

(c) Every Member shall have as the principal purpose of being a Member 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; (ii) a Primary Market Maker; or (iii) a Competitive Market Maker; 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.

[Adopted February 24, 2000; amended September 24, 2001 (SR-ISE-2000-11); renumbered and amended May 1, 2002 (SR-ISE-2002-01).]

### **Rule 302. Denial of and Conditions to Becoming a Member**

(a) An applicant to become a Member of the Exchange must seek approval in the form and manner prescribed by the Exchange.

(b) The Exchange may deny (or condition) approval of a Member, 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.

(c) The Exchange also may deny (or condition) approval of a Member, 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.

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

(e) 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 becoming a Member or associated with a Member after approval thereof;

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

(3) violates any agreement with the Exchange; or

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

(f) 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 (e) of this Rule.

(g) Subject to Chapter 15 (Summary Suspension) of the Rules, any applicant whose application to become a Member is denied Membership or conditioned, or any person whose association with a Member is denied or conditioned pursuant to paragraph (b) or (c) of this Rule, and any Member or person associated with a Member who is not permitted pursuant to paragraph (e) of this Rule to continue as a Member or to be 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) of the Rules.

[Adopted February 24, 2000; renumbered and amended May 1, 2002 (SR-ISE-2002-01).]

### **Rule 303. Approval to Operate Multiple Memberships**

(a) An applicant to become a Member or an approved Member may seek approval to exercise trading privileges associated with more than one Membership in the form and manner prescribed by the Exchange.

(b) An applicant or approved Member will be denied approval with respect to a particular Membership if (together with any of its affiliates) approval would result in the applicant or approved Member being approved to exercise the trading privileges associated with more than one (1) Primary Market Maker Membership or more than ten (10) Competitive Market Maker Memberships. This requirement may be waived by the Board for good cause shown, but in no event shall the Board waive this requirement if such waiver would result in the applicant or approved Member (together with any of its affiliates) being approved to exercise trading privileges associated with more than 30% of the outstanding Primary Market Maker Memberships or more than 20% of the outstanding Competitive Market Maker Memberships.

#### ***Supplementary Material to Rule 303***

.01 When making its determination whether good cause has been shown to waive the limitations contained in Rule 303(b), 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.

.02 In approving any Primary Market Maker to exercise the trading privileges associated with more than 20% of the outstanding Primary Market Maker Memberships, the Board will not approve any arrangement in which such Primary Market Maker would gain ownership or voting rights in excess of those permitted under the Exchange's LLC Agreement or Constitution.

[Adopted February 24, 2000; amended May 1, 2002 (SR-ISE-2002-01); amended January 12, 2005 (SR-ISE-2004-29); amended February 10, 2006 (SR-ISE-2005-46); amended April 21, 2006 (SR-ISE-2006-04).]

### **Rule 304. Persons Associated with Members**

(a) Persons associated with Members 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 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, 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 shall file with the Exchange and keep current a list and descriptive identification of those persons associated with the Member 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 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.

[Adopted February 24, 2000; amended May 1, 2002 (SR-ISE-2002-01).]

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

[Adopted February 24, 2000; amended May 1, 2002 (SR-ISE-2002-01).]

**Rule 306. Member Application Procedures**

(a) Every applicant to become a Member of the Exchange shall file an application. Applications must be accompanied by a non-refundable application fee.

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

(c) 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 301(c).

(d) Upon completion of the application process, the Exchange shall consider whether to approve the application, unless there is just cause for delay. Persons associated with the applicant are subject to investigation by the Exchange and may be required to appear in person before the Exchange. The Exchange may also require any person associated with a Member who may possess information relevant to the applicant's suitability to be a Member to provide information or testimony.

(e) 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.

(f) 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.

(g) Approved applicants must become effective Members within ninety (90) days of the date of approval by the Exchange by owning or leasing a Membership. Should an approved applicant fail to own or lease a Membership within ninety (90) days, its approval shall expire unless an extension is granted by the Exchange based on a showing that a transfer is pending or near completion.

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

[Adopted February 24, 2000; renumbered and amended May 1, 2002 (SR-ISE-2002-01).]

### **Rule 307. Sale and Transfer of Market Maker Rights**

(a) The owner of Market Maker Rights may sell or otherwise transfer ownership of its Market Maker Rights upon the approval of the Exchange. A sale or other transfer of Market Maker Rights shall not be effective until an executed purchase or transfer agreement between the owner and an approved transferee has been filed with, and approved by, the Exchange in writing. The Exchange will provide a bulletin board on which interests to sell or purchase such Market Maker Rights may be posted; however, owners are not required to post interest to sell nor to give preference to posted interests to purchase Market Maker Rights.

(b) Whenever one or more of the following conditions exist with respect to Market Maker Rights, the Exchange may offer the Rights for sale by posting a notice of such sale on a bulletin board for at least thirty (30) days:

(1) An individual owner of Market Maker Rights has died or has been declared legally incompetent, and the legal representative of such owner has failed to consummate a transfer of the Rights within six (6) months of the

owner's death or incompetence or within such extended time as may have been granted by the Exchange;

(2) An owner'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) An owner that is an organization has been dissolved, formally or informally, and no transfer of its Market Maker Rights has been accomplished within six (6) months of the dissolution or within such extended time as may have been granted by the Exchange.

(4) An owner exceeds the concentration limitations contained in the LLC Agreement or Rule 303.

### ***Supplementary Material to Rule 307***

.01 Pursuant to paragraph (a) above, the Exchange shall either approve or disapprove an executed transfer agreement between an owner and an approved applicant within thirty (30) days of receipt of the agreement. A transfer agreement may be disapproved under the following circumstances: (i) the contract attempts to transfer only part of the rights associated with a Market Maker Right; or (ii) the transfer would result in the transferee exceeding the ownership concentration limits contained in the LLC Agreement or Rules, or would otherwise violate the Exchange's Rules. The owner or an approved applicant that is a party to an executed transfer agreement that is denied approval may appeal the Exchange's decision under Chapter 17 (Hearings and Review).

[Adopted February 24, 2000; renumbered and amended May 1, 2002 (SR-ISE-2002-01); amended April 21, 2006 (SR-ISE-2006-04).]

### **Rule 308. Leasing Memberships**

The owner of Market Maker Rights in good standing may lease a market maker Membership to a Member, and a lessee of a market maker Membership in good standing may sublease such Membership with the permission of the owner.

(a) A Membership may only be leased to a Member of the Exchange that has been approved to conduct the appropriate market making activities.

(b) Lease agreements, which may not become effective until approved by the Exchange in writing, 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 the owner and lessee shall not affect the obligation of the owner to pay all amounts due the Exchange upon default of the lessee.

[Adopted February 24, 2000; renumbered and amended May 1, 2002 (SR-ISE-2002-01); amended April 21, 2006 (SR-ISE-2006-04).]

**Rule 309. Registration of Memberships by Individuals for Members**

(a) An individual owner of Market Maker Rights that is an executive officer, director, principal shareholder or general partner of a registered broker-dealer that is or proposes to become a Member of the Exchange, may register his Membership for such broker-dealer by filing an application in the form prescribed by the Exchange.

(b) The registration of a Membership for a Member by an individual may be withdrawn by the Exchange for any reason that would justify withdrawal of the approval of the individual as an owner of a Membership.

(c) Upon the death, retirement, withdrawal or resignation from a Member of an individual 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.

[Adopted February 24, 2000; renumbered and amended May 1, 2002 (SR-ISE-2002-01); amended April 21, 2006 (SR-ISE-2006-04).]

**Rule 310. Dissolution and Liquidation of Members**

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

[Adopted February 24, 2000; renumbered and amended May 1, 2002 (SR-ISE-2002-01).]

**Rule 311. Obligations of Terminating Members and Transferors of Market Maker Rights and Memberships**

(a) Every Member that transfers a 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. 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, delay the effectiveness of the Membership for the transferee, until such failures have been remedied.

(b) Every owner that transfers its Market Maker Rights or Memberships pursuant to the provisions of this Chapter must be current in all payments of dues, fees and charges relating to those Rights or Memberships. If an owner fails to pay all such dues, fees and charges, the Exchange may, notwithstanding the other applicable provisions of this Chapter, delay the effectiveness of the transfer of the Rights or of the Memberships until such failures have been remedied.

[Adopted February 24, 2000; renumbered and amended May 1, 2002 (SR-ISE-2002-01); amended April 21, 2006 (SR-ISE-2006-04).]

**Rule 312. Limitation on Affiliation between the Exchange and Members**

Without prior SEC approval, the Exchange, or any facility of the Exchange, or any entity with which the Exchange or any facility of the Exchange is affiliated shall not, directly or indirectly through one or more intermediaries, acquire or maintain an ownership interest in a Member or non-member owner. In addition, a Member or non-member owner shall not be or become an affiliate of the Exchange, or any facility of the Exchange, or any entity with which the Exchange or any facility of the Exchange is affiliated. Nothing in this rule shall prohibit a Member or non-member owner from acquiring or holding any equity interest in (i) ISE Holdings, Inc. that is permitted by the Certificate of Incorporation of ISE Holdings, Inc, or (ii) ISE Stock Exchange, LLC that is permitted by the Second Amended and Restated Limited Liability Company Agreement of ISE Stock Exchange, LLC. In addition, nothing in this Rule shall prohibit any Member from being or becoming an affiliate of the Exchange, or any facility of the Exchange, or an affiliate of any affiliate of the Exchange or any facility of the Exchange solely by reason of any officer, director or partner of such Member being or becoming (i) an Exchange Director (as defined in the Constitution) pursuant to the Constitution, or (ii) an Advisory Board member of ISE Stock Exchange, LLC (as defined in the Second Amended and Restated Limited Liability Company Agreement of ISE Stock Exchange, LLC).

[Adopted April 21, 2006 (SR-ISE-2006-04); amended September 1, 2006 (SR-ISE-2006-45).]



## 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. Nothing in this paragraph is intended to prohibit a Member from soliciting interest to execute against an order it represents as agent (a "solicited order"), the execution of which is governed by Rule 717(e) and paragraph .02 of Supplementary Material to Rule 717.

.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, the Facilitation or Solicited Order Mechanisms.

[Adopted February 24, 2000; amended April 20, 2001 (SR-ISE-2001-02); amended June 30, 2004 (SR-ISE-2001-22); amended December 9, 2004 (SR-ISE-2003-06).]

**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 to become a Member 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.

[Adopted February 24, 2000; amended May 1, 2002 (SR-ISE-2002-01).]

**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 Funds, as defined in Rule 502(h), or a trust or similar entities, or in any related securities or related options or other derivative securities, or in any related non-U.S. currency, non-U.S. currency options, futures or options on futures on such currency, or any other derivatives based on such currency while in possession of material nonpublic information concerning that corporation or those Funds or that trust or similar entities;

(ii) trading in an underlying security or related options or other derivative securities, or in any related non-U.S. currency, non-U.S. currency options, futures or options on futures on such currency, or any other derivatives based on such currency while in possession of material nonpublic information concerning imminent transactions in the above; and

(iii) disclosing to another person any material nonpublic information involving a corporation or Funds or a trust or similar entities whose shares are publicly traded or an imminent transaction in an underlying security or related securities or in the underlying non-U.S. currency or any related non-U.S. currency options, futures or options on futures on such currency, or any other derivatives based on such currency 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.

[Adopted February 24, 2000; amended June 30, 2006 (SR-ISE-2005-60).]

**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(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.

[Adopted February 24, 2000; amended May 1, 2002 (SR-ISE-2002-01).]

#### **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), except that for a pilot program ("Rule 412 Pilot Program Period") expiring on September 1, 2007, the position limits shall be 25,000 or 50,000 or 75,000 or 200,000 or 250,000 option 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 (or 25,000 option contract limit during the Rule 412 Pilot Program Period) 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 (or 50,000 option contract limit during the Rule 412 Pilot Program Period), 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 (or 75,000 option contract limit during the Rule 412 Pilot Program Period), 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 (or 200,000 option contract limit during the Rule 412 Pilot Program Period), 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 (or 250,000 option contract limit during the Rule 412 Pilot Program Period), 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.

### **Supplementary Material to Rule 412**

.01 The position limits contained in Rule 412 shall be 300,000 for options contracts overlying the Nasdaq 100 Index Trading Stock® and the Standard and Poor's Depository Receipts® Trust, except that during the Rule 412 Pilot Program Period the position limit on the Nasdaq 100 Index Tracking Stock® shall be 900,000 contracts. In addition, options on the iShares® Russell 2000® Index Fund (IWM): (A) shall be exempt from the Rule 412 Pilot Program on a pilot basis, which shall run from January 22, 2007 through July 22, 2007 ("Rule 412 IWM Pilot Program Period"); and (B) during the Rule 412 IWM Pilot Program Period, shall have position limits under Rule 412 of 500,000 option contracts.

.02 Whenever the Exchange determines that a higher margin requirement is warranted in light of the risks associated with an under-hedged options position, the Exchange may impose additional margin upon the account maintaining such under-hedged position, pursuant to its authority under Rule 1204(b). The Clearing Member carrying the account will be subject to capital charges under SEC Rule 15c3-1 to the extent of any margin deficiency resulting from the higher margin requirements.

[Adopted February 24, 2000; amended January 18, 2002 (SR-ISE-2001-26); amended January 14, 2005 (SR-ISE-2005-05); amended March 2, 2005 (SR-ISE-2005-14); amended August 15, 2005 (SR-ISE-2005-39); amended February 7, 2006 (SR-ISE-2006-10); amended August 10, 2006 (SR-ISE-2006-47); amended January 22, 2007 (SR-ISE-2007-07); amended February 16, 2007 (SR-ISE-2007-15).]

### **Rule 413. Exemptions from Position Limits**

(a) *Equity Hedge Exemption.* The following qualified hedging transactions and positions described in paragraphs (1) through (5) below shall be exempt from established position limits as prescribed under Rule 412(d). Hedge transactions and positions established pursuant to paragraphs six (6) and seven (7) below are subject to a position limit equal to five (5) times the standard limit established under Rule 412(d). The equity hedge exemption is in addition to the standard limit and other exemptions available under Exchange Rules.

(1) Where each option contract is “hedged” or “covered” by 100 shares of the underlying security or securities convertible into such underlying security, or, in the case of an adjusted option contract, the same number of shares represented by the adjusted contract; (i) long call and short stock; (ii) short call and long stock; (iii) long put and long stock; (iv) short put and short stock.

(2) A long call position accompanied by a short put position, where the long call expires with the short put, and the strike price of the long call and short put is equal, and where each long call and short put position is hedged with 100 shares (or other adjusted number of shares) of the underlying security or securities convertible into such stock (“reverse conversion”).

(3) A short call position accompanied by a long put position where the short call expires with the long put, and the strike price of the short call and long put is equal, and where each short call and long put position is hedged with 100 shares (or other adjusted number of shares) of the underlying security or securities convertible into such stock (“conversion”).

(4) A short call position accompanied by a long put position, where the short call expires with the long put, and the strike price of the short call equals or exceeds the long put, and where each short call and long put position is hedged with 100 shares of the underlying security (or other adjusted number of shares). Neither side of the short call, long put position can be in-the-money at the time the position is established (“collar”).

(5) A long call position accompanied by a short put position where the long call expires with the short put and the strike price of the long call equals or exceeds the short put and where each long call and short put position is hedged with 100 shares of the underlying security (or other adjusted number of shares). Neither side of the long call, short put position can be in-the-money at the time the position is established (“reverse collar”).

(6) A long call position accompanied by a short put position with the same strike price and a short call position accompanied by a long put position with a different strike price (“box spread”).

(7) A listed option position hedged on a one-for-one basis with an over-the-counter (“OTC”) option position on the same underlying security. The strike price of the listed option position and corresponding OTC option position must be within one strike of each other and no more than one expiration month apart.

(8) For those strategies described under (2), (3), (4), and (5) above, one component of the option strategy can be an OTC option contract guaranteed or endorsed by the firm maintaining the proprietary position or carrying the customer account.

(9) An OTC option contract is defined as an option contract that is not listed on a National Securities Exchange or cleared at the Options Clearing Corporation.

(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 for equity options and twenty percent (20%) of those limits for broad-based index options.

(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 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 must receive approval from the Exchange prior to executing facilitating trades.

(2) The facilitation exemption shall be granted to the Member 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 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 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.

[Adopted February 24, 2000; amended May 1, 2002 (SR-ISE-2002-01); amended July 18, 2002 (SR-ISE-2002-15); amended August 25, 2003 (SR-ISE-2003-05); amended March 2, 2005 (SR-ISE-2005-14).]

#### **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,

except that during the Rule 412 Pilot Program Period the exercise limit shall be 25,000 or 50,000 or 75,000 or 200,000 or 250,000 option 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.

#### ***Supplementary Material to Rule 414***

.01 The exercise limits for options overlying the Nasdaq 100 Index Tracking Stock® and the Standard and Poor's Depository Receipts® Trust shall be 300,000 contracts, except that during the Rule 412 Pilot Program Period the position limit on the Nasdaq 100 Index Tracking Stock® shall be 900,000 contracts.

[Adopted February 24, 2000; amended January 18, 2002 (SR-ISE-2001-26); amended January 14, 2005 (SR-ISE-2005-05); amended March 2, 2005 (SR-ISE-2005-14).]

#### **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, other than index options, no restriction on exercise under this Rule may be in effect with respect to that series of options. With respect to index options, restrictions on exercise may be in effect until the opening of business on the last business day before the expiration date.

(3) Exercises of American-style, cash-settled index options shall be prohibited during any time when trading in such options is delayed, halted, or suspended, subject to the following exceptions:

(i) The exercise of an American-style, cash-settled index option may be processed and given effect in accordance with and subject to the Rules of the Clearing Corporation while trading in the option is delayed, halted, or suspended if it can be documented, in a form prescribed by the Exchange, that the decision to exercise the option was made during allowable time frames prior to the delay, halt, or suspension;

(ii) Exercises of expiring American-style, cash-settled index options shall not be prohibited on the last business day prior to their expiration;

(iii) Exercises of American-style, cash-settled index options shall not be prohibited during a trading halt that occurs at or after 4:00 p.m. Eastern time. In the event of such a trading halt, exercises may occur through 4:20 p.m. Eastern time. In addition, if trading resumes following such a trading halt (such as by closing rotation), exercises may occur during the resumption of trading and for five (5) minutes after the close of the resumption of trading. The provisions of this subparagraph (a)(3)(iii) are subject to the authority of the Board to impose restrictions on transactions and exercises pursuant to paragraph (a) of this Rule; and

(iv) An Exchange officer designated by the Board may determine to permit the exercise of American-style, cash-settled index options while trading in such options is delayed, halted, or suspended.

(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.

[Adopted February 24, 2000; amended August 25, 2003 (SR-ISE-2003-05).]

#### **Rule 419. Mandatory Systems Testing**

(a) Each member that the Exchange designates as required to participate in a system test must conduct or participate in the testing of its computer systems to ascertain the compatibility of such systems with the Exchange’s systems in the manner and frequency prescribed by the Exchange. The Exchange will designate members as required to participate in a system test based on: the category of membership (Primary Market Maker, Competitive Market Maker and Electronic Access Member); the

computer system(s) the member uses; and the manner in which the member connects to the Exchange. The Exchange will give Members reasonable notice of any mandatory systems test, which notice will specify the nature of the test and Members' obligations in participating in the test.

(b) Every member required by the Exchange to conduct or participate in testing of computer systems shall provide to the Exchange such reports relating to the testing as the Exchange may prescribe. Members shall maintain adequate documentation of tests required by this Rule and results of such testing for examination by the Exchange.

(c) A member or member organization that is subject to this Rule and that fails to conduct or participate in the tests, fails to file the required reports, or fails to maintain the required documentation, may be subject to disciplinary action pursuant to the Exchange's rules.

[Adopted May 23, 2002 (SR-ISE-2002-07).]

#### **Rule 420. Anti-Money Laundering Compliance Program**

Each Member shall develop and implement a written anti-money laundering program reasonably designed to achieve and monitor the Member's compliance with the requirements of the Bank Secrecy Act (31 U.S.C. 5311, et seq.) and the implementing regulations promulgated thereunder by the Department of the Treasury. Each Member's anti-money laundering program must be approved, in writing, by the Member's senior management. The anti-money laundering programs required by this Rule shall, at a minimum,

(a) Establish and implement policies and procedures that can be reasonably expected to detect and cause the reporting of transactions required under 31 U.S.C. 5318(g) and the implementing regulations thereunder;

(b) Establish and implement policies, procedures, and internal controls reasonably designed to achieve compliance with the Bank Secrecy Act and the implementing regulations thereunder;

(c) Provide for independent testing for compliance to be conducted by the Member's personnel or by a qualified outside party;

(d) Designate and identify to the Exchange (by name, title, mailing address, e-mail address, telephone number, and facsimile number) an individual or individuals responsible for implementing and monitoring the day-to-day operations and internal controls of the program, and provide prompt notification to the Exchange regarding any change in such designation(s); and

(e) Provide ongoing training for appropriate personnel.

In the event that any of the provisions of this Rule 420 conflict with any of the provisions of another, applicable self-regulatory organization's rule requiring the development and implementation of an anti-money laundering compliance program, the provisions of the rule of the Member's Designated Examining Authority shall apply.

[Adopted July 9, 2004 (SR-ISE-2004-13).]

## CHAPTER 5

### Securities Traded on the Exchange

#### Rule 500. Designation of Securities

Other than pursuant to Chapter 21 of the Rules, the Exchange trades options contracts, each of which is designated by reference to the issuer of the underlying security, expiration month or expiration date, exercise price and type (put or call).

[Amended July 12, 2005 (SR-ISE-2005-17); amended September 28, 2006 (SR-ISE-2006-48).]

#### 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 be an “NMS stock” as defined in Rule 600 of Regulation NMS 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) Either:

(i) If the underlying security is a “covered security” as defined under Section 18(b)(1)(A) of the Securities Act of 1933, the market price per share of the underlying security has been at least \$3.00 for the previous five consecutive business days preceding the date on which the Exchange submits a certificate to the Clearing Corporation for listing and trading, as measured by the closing price reported in the primary market in which the underlying security is traded; or

(ii) If the underlying security is not a “covered security,” 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; or

(iii) The underlying security meets the guidelines for continued approval in Rule 503; options on such underlying security are traded on at least one other registered national securities exchange; and the average daily trading volume for such options over the last three calendar months preceding the date of selection has been at least 5,000 contracts.

(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 than 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, or, if the Restructure Security is a “covered security,” as defined in Rule 502(b)(5)(l), the market price of the Restructure Security was at least \$3.00.

(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 (i) represent interests in registered investment companies (or series thereof) organized as open-end management investment companies, unit investment trusts or similar entities that are traded on a national securities exchange or through the facilities of a national securities association and are defined as an “NMS stock” under Rule 600 of Regulation NMS, 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) or (ii) represent interests in a trust that holds a specified non-U.S. currency deposited with the trust when aggregated in some specified minimum number may be surrendered to the trust by the beneficial owner to receive the specified non-U.S. currency and pays the beneficial owner interest and other distributions on the deposited non-U.S. currency, if any, declared and paid by the trust (“Funds”); provided that all of the following conditions are met:

(1) any non-U.S. component securities of an index or portfolio of securities 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) component securities of an index or portfolio of securities on which the Fund Shares are based 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) component securities of an index or portfolio of securities on which the Fund Shares are based 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;

(4) For Funds that hold a specified non-U.S. currency deposited with the trust, the Exchange has entered into an appropriate comprehensive surveillance sharing agreement with the marketplace or marketplaces with last sale reporting that represent(s) the highest volume in derivatives (options or futures) on the specified non-U.S. currency, which are utilized by the national securities exchange where the underlying Funds are listed and traded; and

(5) 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 issuing trust, investment company or other entity in cash or in kind at a price related to net asset value, and the issuer is obligated to issue Fund Shares in a specified aggregate number even if some or all of the investment assets required to be

deposited have not been received by the issuer, subject to the condition that the person obligated to deposit the investment assets has undertaken to deliver them 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 issuer of Fund Shares, all as described in the Fund Shares' 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); amended December 31, 2001 (SR-ISE-2001-33); amended March 11, 2003 (SR-ISE-2003-04); amended July 25, 2003 (SR-ISE-2003-19); amended November 21, 2005 (SR-ISE-2005-52); amended June 30, 2006 (SR-ISE-2005-60).]

### **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 \$3 on the previous trading day as measured by the closing price reported by the primary market in which the underlying security is traded.

(5) The underlying security ceases to be an "NMS stock" as defined in Rule 600 of Regulation NMS under the Exchange Act.

(6) 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) 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 (including on a next-day, expiration or intra-day basis) when the market price per share of such underlying security closed less than \$3 on the last trading day preceding the day on which such series are added, as measured by the closing price reported by the primary market in which the underlying security trades. In addition to closing at or above \$3 on the last trading day preceding the day series are added, the Exchange shall not open for trading any additional series of options contracts on an intra-day basis unless the last reported trade in the primary market in which the underlying security trades is at least \$3 at the time the Exchange determines to add the series. Notwithstanding the above, the Exchange may add a series if the additional series is traded on at least one other registered national securities exchange and, at the time the additional series was listed by such other registered national securities exchange, it met the \$3 market price requirement.

(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) 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.

(f) 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 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.

(g) 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.

(h) 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 Fund Shares are delisted from trading as provided in subparagraph (b)(5) of this Rule or the Fund Shares are halted from trading on their primary market. 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)(5)(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)(5)(ii), following the initial twelve-month period beginning upon the commencement of trading in the Fund Shares on a national securities exchange or through the facilities of a national securities association and are defined as an "NMS stock" under Rule 600 of Regulation NMS, 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 or non-U.S. currency 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.

(i) 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.

(j) 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); amended November 20, 2001, (SR-ISE-2001-29); amended May 1, 2002 (SR-ISE-2002-01); amended October 15, 2002 (SR-ISE-2002-01); amended November 21, 2005 (SR-ISE-2005-52); amended June 30, 2006 (SR-ISE-2005-60).]

#### **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. For Short Term Option Series, the Exchange will fix a specific expiration date and exercise price, as provided in Supplementary Material .02. For Quarterly Options Series, the Exchange will fix a specific expiration date and exercise price, as provided in Supplementary Material .03.

(b) Except as otherwise provided in this Rule 504 and Supplementary Material hereto, 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) Except as otherwise provided in this Rule 504 and Supplementary Material hereto, 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) Except as otherwise provided in this Rule 504 and Supplementary Material hereto, 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) Pursuant to a program initially approved by the SEC in 1995, 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 "\$2.50 Strike Price Program"). On any option class that has been selected as part of this \$2.50 Strike Price Program, \$2.50 strike prices between \$50 and \$75 may be listed, provided that \$2.50 strike prices between \$50 and \$75 are no more than \$10 from the closing price of the underlying stock in its primary market on the preceding day. For example, if an options class has been selected as part of the \$2.50 Strike Price Program, and the underlying stock closes at \$48.50 in its primary market,

the Exchange may list the \$52.50 strike price and the \$57.50 strike price on the next business day. If an underlying security closes at \$54, the Exchange may list the \$52.50 strike price, the \$57.50 strike price and the \$62.50 strike price on the next business day. The Exchange may list a strike price interval of \$2.50 in any multiply-traded option once an exchange selects an option as part of the \$2.50 Strike Price Program.

(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.

### ***Supplementary Material to Rule 504***

.01 *\$1 Strike Pilot Program:* The interval between strike prices of series of options on individual stocks may be \$1.00 or greater (“\$1 strike prices”) provided the strike price is \$20.00 or less, but not less than \$3. The listing of \$1 strike prices shall be limited to options classes overlying no more than five (5) individual stocks (the “\$1 Strike Pilot Program”) as specifically designated by the Exchange. The Exchange may list \$1 strike prices on any other options class if those classes are specifically designated by other securities exchanges that employ a \$1 Strike Pilot under their respective rules.

To be eligible for inclusion into the \$1 Strike Pilot Program, an underlying stock must close below \$20 in its primary market on the previous trading day. After a stock is added to the \$1 Strike Pilot Program, the Exchange may list \$1 strike prices from \$3 to \$20 that are no more than \$5 from the closing price of the underlying on the preceding day. For example, if the underlying stock closes at \$13, the Exchange may list strike prices from \$8 to \$18. The Exchange may not list series with \$1 intervals within \$0.50 of an existing \$2.50 strike price (e.g., \$12.50, \$17.50) in the same series, and may not list \$2.50 intervals (e.g., \$12.50, \$17.50) below \$20 under paragraph (d)(1) of Rule 504 for any class included within the \$1 Strike Pilot Program if the addition of \$2.50 intervals would cause the class to have strike price intervals that are \$.50 apart. Additionally, the Exchange may not list long-term option series at \$1 strike price intervals for any option class selected for the \$1 Strike Pilot Program.

A stock shall remain in the \$1 Strike Pilot Program until otherwise designated by the Exchange. The \$1 Strike Pilot Program shall expire on June 5, 2007.

.02 *Short Term Option Series Pilot Program:* After an option class has been approved for listing and trading on the Exchange, the Exchange may open for trading on any Friday that is a business day (“Short Term Option Opening Date”) series of options on that class that expire on the next Friday that is a business day (“Short Term Option Expiration Date”). If the Exchange is not open for business on a Friday, the Short Term Option Opening Date will be the first business day immediately prior to that

Friday. Similarly, if the Exchange is not open for business on a Friday, the Short Term Option Expiration Date will be the first business day immediately prior to that Friday.

Regarding Short Term Option Series, no new Short Term Option Series may be added after the open of business on the Short Term Option Opening Date and no Short Term Option Series may expire in the same week in which monthly option series on the same class expires.

The Exchange may continue to list Short Term Option Series until the Short Term Option Series Pilot Program expires on July 12, 2007.

Regarding Short Term Option Series, the Exchange may select up to five (5) currently listed option classes in which Short Term Option Series may be opened on any Short Term Option Opening Date. In addition to the five-option class restriction, the Exchange may also list Short Term Option Series on any option classes that are selected by other securities exchanges that employ a similar Pilot Program under their respective rules. For each option class eligible for participation in the Short Term Option Series Pilot Program, the Exchange may open up to five Short Term Option Series for each expiration date in that class. The strike price of each Short Term Option Series will be fixed at a price per share, with at least two strikes prices above and two strike prices below the value of the underlying security at about the time that Short Term Option Series is opened for trading on the Exchange.

The interval between strike prices on Short Term Option Series shall be the same as the strike prices for series in that same option class that expire in accordance with the normal monthly expiration cycle.

*.03 Quarterly Options Series Pilot Program:* For a one-year pilot period, the Exchange may list and trade options series that expire at the close of business on the last business day of a calendar quarter ("Quarterly Options Series"). The Exchange may list Quarterly Options Series for up to five (5) currently listed options classes that are either index options or options on exchange traded funds. In addition, the Exchange may also list Quarterly Options Series on any options classes that are selected by other securities exchanges that employ a similar pilot program under their respective rules. The one-year pilot will commence the day the Exchange first initiates trading in a Quarterly Options Series, which shall be no later than July 24, 2006.

(a) The Exchange will list series that expire at the end of the next consecutive four (4) calendar quarters, as well as the fourth quarter of the next calendar year. For example, if the Exchange is trading Quarterly Options Series in the month of May 2006, it will list series that expire at the end of the second, third and fourth quarters of 2006, as well as the first and fourth quarters of 2007. Following the second quarter 2006 expiration, the Exchange will add series that expire at the end of the second quarter of 2007.

(b) The Exchange will not list a Short Term Option Series on an options class whose expiration coincides with that of a Quarterly Options Series on that same options class.

(c) The strike price of each Quarterly Options Series will be fixed at a price per share, with at least two strike prices above and two strike prices below the value of the underlying security at about the time that a Quarterly Options Series is opened for trading on the Exchange. The Exchange shall list strike prices for a Quarterly Options Series that are within \$5 from the closing price of the underlying on the preceding day. Additional Quarterly Options Series 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 security moves substantially from the initial exercise price or prices. To the extent that any additional strike prices are listed by the Exchange, such additional strike prices shall be within \$5 from the closing price of the underlying on the preceding day. The opening of new Quarterly Options Series shall not affect the series of options of the same class previously opened.

(d) The interval between strike prices on Quarterly Options Series shall be the same as the interval for strike prices for series in that same options class that expire in accordance with the normal monthly expiration cycle.

[Adopted February 24, 2000; amended March 2, 2001 (SR-ISE-2001-08); amended June 16, 2003 (SR-ISE-2003-17); amended July 22, 2004 (SR-ISE-2004-26); amended May 31, 2005 (SR-ISE-2005-22); amended July 12, 2005 (SR-ISE-2005-17); amended December 12, 2005 (SR-ISE-2005-59); amended May 15, 2006 (SR-ISE-2006-20); amended July 3, 2006 (SR-ISE-2006-37); amended July 10, 2006 (SR-ISE-2006-24).]

#### **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.

**Rule 507. Limitation on the Liability of Index Licensors for Options on Fund Shares**

(a) The term "index licensor" as used in this Rule refers to any entity that grants the Exchange a license to use one or more indexes or portfolios in connection with the trading of options on Fund Shares (as defined in Rule 502(h)).

(b) No index licensor with respect to any index or portfolio underlying an option on Fund Shares traded on the Exchange makes any warranty, express or implied, as to the results to be obtained by any person or entity from the use of such index or portfolio, any opening, intra-day or closing value therefor, or any data included therein or relating thereto, in connection with the trading of any option contract on Fund Shares based thereon or for any other purpose. The index licensor shall obtain information for inclusion in, or for use in the calculation of, such index or portfolio from sources it believes to be reliable, but the index licensor does not guarantee the accuracy or completeness of such index or portfolio, any opening, intra-day or closing value therefor, or any data included therein or related thereto. The index licensor hereby disclaims all warranties of merchantability or fitness for a particular purpose or use with respect to any such index or portfolio, any opening, intra-day or closing value therefor, any data included therein or relating thereto, or any option contract on Fund Shares based thereon. The index licensor shall have no liability for any damages, claims, losses (including any indirect or consequential losses), expenses or delays, whether direct or indirect, foreseen or unforeseen, suffered by any person arising out of any circumstance or occurrence relating to the person's use of such index or portfolio, any opening, intra-day or closing value therefor, any data included therein or relating thereto, or any option contract on Fund Shares based thereon, or arising out of any errors or delays in calculating or disseminating such index or portfolio.

[Adopted March 19, 2003 (SR-ISE-2003-09).]

## 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 a narrow-based index, as defined in Rule 2001, and 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.

(b) Options on Fund Shares, as defined in Rule 502(h), may be traded on the Exchange until 4:15 p.m. each business day.

(c) Options on a broad-based index, as defined in Rule 2001, may be traded on the Exchange until 4:15 p.m. each business day.

(d) 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.

[Adopted February 24, 2000; amended December 10, 2004 (SR-ISE-2004-39); amended February 13, 2006 (SR-ISE-2005-58).]

#### 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 or index

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.

[Adopted February 24, 2000; amended August 25, 2003 (SR-ISE-2003-05).]

#### **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) The following are among the factors that may be considered in determining whether the trading in an Equity Security (as defined in Rule 2100) should be halted:

- (i) the opening of such security has been delayed due to order imbalances.
- (ii) the Exchange has been advised that the issuer of the security is about to make an important announcement affecting such issue.
- (iii) other unusual conditions or circumstances are present.

(iv) trading in such security has been halted or suspended in the primary market for such security.

(3) 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. Similarly, a designated Exchange official will halt trading for an Equity Security whenever there is a halt of trading in that security in the primary market.

(4) 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, or trading in an Equity Security that has been the subject of a halt under paragraph (a)(2) 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.

[Amended September 28, 2006 (SR-ISE-2006-48)].

### **Rule 703. Trading Halts Due To Extraordinary Market Volatility**

The Exchange shall halt trading in all securities 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.

[Amended September 28, 2006 (SR-ISE-2006-48)].

### **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. Without limiting the generality of the foregoing, the Exchange shall have no liability to any person for any loss, expense, damages or claims with result from any error, omission or delay in calculating or disseminating any current or closing

index value or any reports of transactions in or quotations for options or other securities, including underlying securities.

(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 constitute 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.

[Adopted February 24, 2000; amended August 25, 2003 (SR-ISE-2003-05).]

**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.

### ***Supplementary Material to Rule 710***

.01 Notwithstanding any other provision of this Rule 710, the Exchange will operate a pilot program to permit options classes to be quoted and traded in increments as low as \$.01. The Exchange will specify which options trade in such pilot, and in what increments, in Regulatory Information Circulars filed with the Commission pursuant to Rule 19b-4 under the Exchange Act and distributed to Members.

[Adopted February 24, 2000; amended August 3, 2000 (SR-ISE-2000-07); amended May 24, 2001 (SR-ISE-2001-14); affirmation of SR-ISE-2001-14 approved July 29, 2002 (SR-ISE-2002-06); amended January 24, 2007 (SR-ISE-2006-62).]

### **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 in subparagraphs (b) and (c) below and subject to paragraph .03 (Preferred Orders), 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.

.02 All-or-none orders, as defined in Rule 715(c), are contingency orders that have no priority on the book. Such orders are maintained in the system and remain available for execution after all other trading interest at the same price has been exhausted.

.03 Preferred Orders. For a pilot period ending June 10, 2007, an Electronic Access Member may designate a "Preferred Market Maker" on orders it enters into the System ("Preferred Orders").

(a) A Preferred Market Maker may be the Primary Market Maker appointed to the options class or any Competitive Market Maker appointed to the options class.

(b) If the Preferred Market Maker is not quoting at a price equal to the NBBO at the time the Preferred Order is received, the allocation procedure contained in paragraph .01 shall be applied to the execution of the Preferred Order.

(c) If the Preferred Market Maker is quoting at the NBBO at the time the Preferred Order is received, the allocation procedure contained in paragraph .01 shall be applied to the execution of the Preferred Order except that the Primary Market Maker will not receive the participation rights described in paragraphs .01(b) and (c), and instead the Preferred Market Maker shall have 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 and forty percent (40%) if there are two (2) or more other Non-Customer Orders and/or market maker quotes at the best price.

[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); affirmation of SR-ISE-2001-14 approved July 29, 2002 (SR-ISE-2002-06); amended November 20, 2003 (SR-ISE-2003-25); amended June 10, 2005 (SR-ISE-2005-18); amended July 20, 2005 (SR-ISE-2005-35); amended June 1, 2006 (SR-ISE-2006-28).]

#### **Rule 714. Automatic Execution of Orders**

(a) Incoming orders that are executable against orders and quotes in the System will be executed automatically by the System; provided that such orders 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. Public Customer Orders that are not automatically executed will be handled by the Primary Market Maker pursuant to Rule 803(c). Non-Customer Orders that are not automatically executed will be rejected automatically by the System.

(b) Paragraph (a) shall not apply 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.

[Adopted February 24, 2000; amended July 14, 2006 (SR-ISE-2006-27).]

### **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.

(c) *All-Or-None Orders.* An all-or-none order is a limit or market order that is to be executed in its entirety or not at all.

(d) *Stop Orders.* A stop order is an order that becomes a market order when the stop price is elected. A stop order to buy is elected when the option is bid or trades on the ISE at, or above, the specified stop price. A stop order to sell is elected when the option is offered or trades on the ISE at, or below, the specified stop price.

(e) *Stop Limit Orders.* A stop limit order is an order that becomes a limit order when the stop price is elected. A stop limit order to buy is elected when the option is bid or trades on the ISE at, or above, the specified stop price. A stop limit order to sell becomes a sell limit order when the option is offered or trades on the ISE at, or below, the specified stop price.

(f) *Customer Participation Orders.* A Customer Participation Order ("CPO") is a limit order on behalf of a Public Customer that, in addition to the limit order price in standard increments according to Rule 710, includes a price stated in one-cent increments (the "Participation Interest") at which the Public Customer wishes to participate in trades executed in the same options series in penny increments through the Price Improvement Mechanism pursuant to Rule 723. The Participation Interest price must be higher than the limit order price in the case of a CPO to buy, and lower than the limit order price in the case of a CPO to sell. The size of the order will be

automatically decremented when the Public Customer participates in the execution of an order at the Participation Interest price.

[Adopted February 24, 2000; amended November 20, 2003 (SR-ISE-2003-25); amended August 31, 2005 (SR-ISE-2005-41).]

**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, a “broadcast message” means an electronic message that is sent by the Exchange to all Members, and a “Response” means an electronic message that is sent by Members in response to a broadcast message.

(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 and Members will be given an opportunity to enter Responses with 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 Members 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).

(d) *Facilitation Mechanism.* The Facilitation Mechanism is a process by which an Electronic Access Member can facilitate block-size 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 and Members will be given an opportunity to enter Responses with the prices and sizes at which they want to participate in the facilitation of the order.

(2) Responses may be priced at the price of the order to be facilitated or at a better price and must not exceed the size of the order to be facilitated.

(3) At the end of the period given for the entry of Responses, the facilitation order will be automatically executed.

(i) Unless there is sufficient size to execute the entire facilitation order at a better price, Public Customer bids (offers) 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) 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 Responses, orders and quotes, as well as Public Customer Orders at the facilitation price, are executed in full. Thereafter, Responses 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 facilitation price that is represented by the size of the Response, Non-Customer Order or quote.

(e) *Solicited Order Mechanism.* The Solicited Order Mechanism is a process by which an Electronic Access Member can attempt to execute orders of 500 or more contracts it represents as agent (the "Agency Order") against contra orders that it solicited. Each order entered into the Solicited Order Mechanism shall be designated as all-or-none.

(1) Upon entry of both orders into the Solicited Order Mechanism at a proposed execution price, a broadcast message will be sent and Members will be given an opportunity to enter Responses with the prices and sizes at which they would be willing to participate in the execution of the Agency Order.

(2) At the end of the period given Members to enter Responses, the Agency Order will be automatically executed in full or cancelled.

(i) If at the time of execution there is insufficient size to execute the entire Agency Order at an improved price (or prices), the Agency Order will be executed against the solicited order at the proposed execution price so long as, at the time of execution: (A) the execution price is equal to or better than the best bid or offer on the ISE, and (B) there are no Public Customer orders on the Exchange that are priced equal to the proposed execution price. If there are Public Customer

orders on the Exchange on the opposite side of the Agency Order at the proposed execution price and there is sufficient size to execute the entire size of the Agency Order, the Agency Order will be executed against the bid or offer, and the solicited order will be cancelled. The aggregate size of all orders, quotes and Responses at the bid or offer will be used to determine whether the entire Agency Order can be executed. Both the solicited order and Agency Order will be cancelled if an execution would take place at a price that is inferior to the best bid or offer on the ISE, or if there is a Public Customer on the book at the proposed execution price but there is insufficient size on the Exchange to execute the entire Agency Order.

(ii) If at the time of execution there is sufficient size to execute the entire Agency Order at an improved price (or prices), the Agency Order will be executed at the improved price(s), subject to the condition in (i)(A), and the solicited order will be cancelled. The aggregate size of all orders, quotes and Responses at each price will be used to determine whether the entire agency order can be executed at an improved price (or prices).

(iii) When executing the Agency Order against the bid or offer in accordance with paragraph (i) above, or at an improved price in accordance with paragraph (ii) above, Public Customer orders will be executed first. Non-Customers participate in the execution of the Agency 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 interest.

(3) Prior to entering Agency Orders into the Solicited Order Mechanism on behalf of a customer, EAMs must deliver to the customer a written notification informing the customer that its order may be executed using the ISE's Solicited Order Mechanism. Such written notification must disclose the terms and conditions contained in this Rule and must be in a form approved by the Exchange.

### ***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 time period given for the entry of Responses, 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 Responses represent non-firm interest that can be canceled at any time prior to execution. Responses are not displayed to any market participants.

.03 Responses may not be entered for the account of an options market maker from another options exchange.

.04 The time given to Members to enter Responses under paragraphs (c)(1), (d)(1) and (e)(1) shall be three (3) seconds.

.05 Under paragraph (e) above, Members may enter contra orders that are solicited. The Solicited Order Mechanism provides a facility for Members that locate liquidity for their customer orders. Members may not use the Solicited Order Mechanism to circumvent Exchange Rule 717(d) limiting principal transactions. This may include, but is not limited to, Members entering contra orders that are solicited from (1) affiliated broker-dealers, or (2) broker-dealers with which the Member has an arrangement that allows the Member to realize similar economic benefits from the solicited transaction as it would achieve by executing the customer order in whole or in part as principal. Additionally, any solicited contra orders entered by Members to trade against Agency Orders may not be for the account of an ISE market maker that is assigned to the options class.

.06 Split Prices. Orders and Responses not trading in penny increments may be entered into the Block, Facilitation and Solicitation Mechanisms and receive executions at the mid-price between the standard minimum trading increments for the options series ("Split Prices"). This means that orders and Responses for options with a minimum increment of 5 cents may be entered into the Block, Facilitation and Solicitation Mechanisms and receive executions in 2.5 cent increments (e.g., \$1.025, \$1.05, \$1.075, etc.), and that orders and Responses for options with a minimum increment of 10 cents may be entered into the Block, Facilitation and Solicitation Mechanism and receive executions at 5 cent increments (e.g., \$4.05, \$4.10, \$4.15, etc.). Orders and quotes in the market that receive the benefit of the block execution price under paragraph (c)(2)(i) and facilitation price under paragraph (d)(2)(i) may also receive executions at Split Prices.

.07 Away Market Prices. Orders of 50 to 499 contracts executed through the Block and Facilitation Mechanisms will not be executed at a price inferior to the national best bid or offer at the time of execution. Orders of 500 or more contracts executed through the Block, Facilitation and Solicited Order Mechanisms will be executed without consideration of any prices that might be available on other exchanges trading the same options contract.

.08 Complex Orders. Electronic Access Members may use the Facilitation Mechanism and the Solicited Order Mechanism according to paragraphs (d) and (e) of this Rule 716 to execute block-size complex orders (as defined in Rule 722) at a net price. Members may enter Indications for complex orders at net prices, and bids and offers for complex orders will participate in the execution of an order being executed as provided in paragraphs (d) and (e) of this Rule 716. With respect to bids and offers for



the individual legs of a complex order entered into the mechanisms, the priority rules for complex orders contained in Rule 722(b)(2) will continue to be applicable. If an improved net price for the complex order being executed can be achieved from bids and offers for the individual legs of the complex order in the Exchange's auction market, the order being executed will receive an execution at the better net price.

[Adopted February 24, 2000; amended May 22, 2000 (SR-ISE-2000-03); amended June 20, 2001 (SR-ISE-2001-03); amended September 18, 2002 (SR-ISE-2001-19); amended June 30, 2004 (SR-ISE-2001-22); amended May 9, 2005 (SR-ISE-2003-07); amended August 24, 2005 (SR-ISE-2004-33); amended November 1, 2005 (SR-ISE-2004-04); amended April 13, 2006 (SR-ISE-2006-15); amended September 28, 2006 (SR-ISE-2006-52); amended October 23, 2006 (SR-ISE-2004-17); amended January 24, 2007 (SR-ISE-2006-62).]

### **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) Reserved.

#### (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 three (3) seconds, (ii) the Electronic Access Member has been bidding or offering on the Exchange for at least three (3) 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), or (iv) the Member utilizes the Price Improvement Mechanism for Crossing Transactions pursuant to Rule 723.

(e) Solicitation Orders.

Electronic Access Members may not execute orders they represent as agent on the Exchange against orders solicited from Members and non-member broker-dealers to transact with such orders unless (i) the unsolicited order is first exposed on the Exchange for at least three (3) seconds, (ii) the Member utilizes the Solicited Order Mechanism pursuant to Rule 716(e), or (iii) the Member utilizes the Price Improvement Mechanism for Crossing Transactions pursuant to Rule 723.

(f) Reserved.

(g) Orders for the Account of Another Member.

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 unless such orders are identified as orders for the account of an ISE market maker in the manner prescribed by the Exchange.

### ***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); amended January 21, 2003 (SR-ISE-2002-27); amended April 22, 2004 (SR-ISE-2003-26); amended July 17, 2004 (SR-ISE-2004-19); amended June 30, 2004 (SR-ISE-2001-22); amended March 23, 2005 (SR-ISE-2005-

15); amended May 23, 2006 (SR-ISE-2006-21); amended October 23, 2006 (SR-ISE-2004-17).]

**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 contract 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. In limited circumstances, the Exchange may nullify transactions, pursuant to Supplementary Material .08 below.

(a) *Definition of Obvious Error.* For purposes of this Rule only, an Obvious Error will be deemed to have occurred when the execution price of a transaction is higher or lower than the Theoretical Price for the series by an amount equal to at least the amount shown below:

Theoretical Price	Minimum Amount
Below \$2	.25

\$2 to \$5	.40
Above \$5 to \$10	.50
Above \$10 to \$20	.80
Above \$20	1.00

(b) *Definition of Theoretical Price.* For purposes of this Rule only, the Theoretical Price of an options series is:

(1) if the series is traded on at least one other options exchange, the last bid price with respect to an erroneous sell transaction, and last offer price with respect to an erroneous buy transaction, just prior to the trade, disseminated by the competing options exchange that has the most liquidity in that option; 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) *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 actions listed below. Upon taking final action, Market Control shall promptly notify both parties to the trade.

(i) Where each party to the transaction is a market maker on the Exchange, the execution price of the transaction will be adjusted by Market Control to the prices provided in paragraphs (A) and (B) below unless both parties agree to adjust the transaction to a different price or agree to bust the trade within ten (10) minutes of being notified by Market Control of the Obvious Error.

(A) Erroneous buy transactions will be adjusted to their Theoretical Price (1) plus \$.15 if the Theoretical Price is under \$3, and (2) plus \$.30 if the Theoretical Price is at or above \$3.

(B) Erroneous sell transactions will be adjusted to their Theoretical Price (1) minus \$.15 if the Theoretical Price is

under \$3, and (2) minus \$.30 if the Theoretical Price is at or above \$3.

(ii) Where at least one party to the Obvious Error is not a market maker on the Exchange, the trade will be busted by Market Control unless both parties agree to an adjustment price for the transaction within thirty (30) minutes of being notified by Market Control of the Obvious Error.

(d) *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) Scope of Panel's Review. If a party affected by a determination made under this Rule so requests within the time permitted in (3) 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 as provided in this Rule in cases where the party failed to provide the notification required in paragraph (c)(1) and Market Control declined to grant an extension, but unusual circumstances must merit special consideration.

(3) Procedure for Requesting Review. 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.

(4) 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 When Market Control determines that an Obvious Error has occurred and action is warranted under paragraph (c)(2) above, the identity of the parties to the trade will be disclosed to each other in order to encourage conflict resolution.

.02 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.

.03 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.

.04 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.

.05 Buyers of options with a zero bid and \$.05 offer (i.e., a Theoretical Price of \$.05) may request that their execution be busted if at least the three strikes below (for calls) or above (for puts) in the same options class were quoted with a zero bid and \$.05 offer at the time of the execution. Such buyers must follow the procedures of paragraph (c)(1) above.

.06 For purposes of paragraph (b)(1) of Rule 720, the competing options exchange with the most liquidity will be the options exchange that had the highest total contract volume in the options class for the previous two months (e.g., if an obvious error occurs on March 9, the total contract volume from January 8 to March 8 will be used).

.07 For purposes of Rule 720, an “erroneous sell transaction” is one in which the price received by the person selling the option is erroneously low, and an “erroneous buy transaction” is one in which the price paid by the person purchasing the option is erroneously high.

.08 Unless all parties to a trade agree otherwise, Market Control may nullify a trade if all parties to a trade fail to receive a trade execution report due to a verifiable system outage.

[Adopted June 1, 2001 (SR-ISE-2000-19); amended June 27, 2002 (SR-ISE-2001-34); amended November 14, 2002 (SR-ISE-2002-23); amended June 26, 2003 (SR-ISE-2003-10); amended July 27, 2006 (SR-ISE-2006-14).]

**Rule 721. [Reserved]**

**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) *Combination orders with non-equity options legs.* One or more legs of a complex order may be to purchase or sell a stated number of units of another security.

(i) *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 (A) 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 (B) 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.

(ii) *SSF-Option Order.* A SSF-option order is an order to buy or sell a stated number of units of a single stock future or a security convertible into a single stock future (“convertible SSF”) coupled with either (A) the purchase or sale of option contracts(s) on the opposite side of the market representing either the same number of units of stock underlying the single stock future or convertible SSF, or the number of units of stock underlying the single stock future or convertible SSF necessary to create a delta neutral position; or (B) 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 underlying stock, as and on the opposite side of the market from, the stock underlying the single stock future or convertible SSF portion of the order.

(6) *Ratio Order.* A spread, straddle or combination order may consist of legs that have 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 is any ratio that is equal to or greater than one-to-three (.333) and less than or equal to three-to-one (3.00). For example, a one-to-two (.5) ratio, a two-to-three (.667) ratio, or a two-to-one (2.0) ratio is permissible, whereas a one-to-four (.25) ratio or a four-to-one (4.0) ratio is not.

(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, and the leg(s) of a complex order may be executed in one cent increments, regardless of the minimum increments otherwise applicable to the individual legs of the order.

(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 by at least one minimum trading increment as defined in Rule 710. Under the circumstances described above, the option leg of a stock-option order, as defined in subparagraph (a)(5)(i)(A) of this Rule, or SSF-option order as defined in subparagraph (a)(5)(ii)(A) 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)(B), or SSF-option order as defined in subparagraph (a)(5)(ii)(B), consisting of a combination order with stock or single stock futures, as the case may be, 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.* 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 A bid or offer made as part of a stock-option order (as defined in (a)(5)(i) above) or a SSF-option order (as defined in (a)(5)(ii) above) is made and accepted subject to the following conditions: (1) the order must disclose all legs of the order and must identify the security (which in the case of a single stock future requires sufficient identification to determine the market(s) on which the single stock future trades) and the price at which the non-option leg(s) of the order is to be filled; and (2) concurrent with the execution of the options leg of the order, the initiating member and each member that agrees to be a contra-party on the non-option leg(s) of the order must either elect to have the stock leg(s) of a stock-option order electronically communicated to a designated broker-dealer for execution as provided in .02 below or take steps immediately to transmit the non-option leg(s) to a non-Exchange market(s) for execution. Failure to observe these requirements will be considered conduct inconsistent with just and equitable principles of trade and a violation of Rule 400.

A trade representing the execution of the options leg of a stock-option or SSF-option order may be cancelled at the request of any member that is a party to that trade only if market conditions in any of the non-Exchange market(s) prevent the execution of the non-option leg(s) at the price(s) agreed upon.

.02 Automated Stock Option Orders. A Member may elect to have the Exchange electronically communicate the stock leg(s) of a stock-option order to a designated broker-dealer for execution. To make such an election, the Member must enter into a brokerage agreement with the designated broker-dealer. The Exchange will automatically transmit the stock leg(s) of a trade to the designated broker-dealer for execution on behalf of the Member. A trade of a stock-option order will be automatically cancelled if market conditions prevent the execution of the stock or option leg(s) at the prices necessary to achieve the agreed upon net price.

[Adopted October 18, 2001 (SR-ISE-2001-18); amended February 12, 2002, effective March 14, 2002 (SR-ISE-2002-03); amended May 1, 2002 (SR-ISE-2002-01); amended May 24, 2002 (SR-ISE-2002-14); amended August 21, 2002 (SR-ISE-2002-18); amended October 15, 2002 (SR-ISE-2002-20); amended January 5, 2004 (SR-ISE-2003-37); amended August 12, 2004 (SR-ISE-2004-20); amended July 11, 2006 (SR-ISE-2005-49).]

### **Rule 723. Price Improvement Mechanism for Crossing Transactions**

(a) The Price Improvement Mechanism is a process by which an Electronic Access Member can provide price improvement opportunities for a transaction wherein the Electronic Access Member seeks to facilitate an order it represents as agent, and/or a transaction wherein the Electronic Access Member solicited interest to execute against an order it represents as agent (a "Crossing Transaction").

(b) Crossing Transaction Entry. A Crossing Transaction is comprised of the order the Electronic Access Member represents as agent (the "Agency Order") and a counter-side order for the full size of the Agency Order (the "Counter-Side Order"). The Counter-Side Order may represent interest for the Member's own account, or interest the Member has solicited from one or more other parties, or a combination of both.

(1) A Crossing Transaction must be entered only at a price that is better than the national best bid or offer ("NBBO"), and only when there are at least three (3) market makers quoting in the options series.

(2) The Crossing Transaction may be priced in one-cent increments.

(3) The Crossing Transaction may not be canceled, but the price of the Counter-Side Order may be improved during the exposure period.

(c) Exposure Period. Upon entry of a Crossing Transaction into the Price Improvement Mechanism, a broadcast message that includes the series, price and size of the Agency Order, and whether it is to buy or sell, will be sent to all Members. This broadcast message will not be included in the ISE disseminated best bid or offer and will not be disseminated through OPRA.

(1) Members will be given three seconds to indicate the size and price at which they want to participate in the execution of the Agency Order ("Improvement Orders").

(2) Improvement Orders may be entered by all Members for their own account or for the account of a Public Customer in one-cent increments at the same price as the Crossing Transaction or at an improved price for the Agency Order, and for any size up to the size of the Agency Order.

(3) During the exposure period, Improvement Orders may not be canceled, but may be modified to (1) increase the size at the same price, or (2) improve the price of the Improvement Order for any size up to the size of the Agency Order.

(4) During the exposure period, the aggregate size of the best prices (including the Counter-Side Order, Improvement Orders, and any changes to either) will continually be updated and broadcast to all Members.

(5) The exposure period will automatically terminate (i) at the end of the three second period, (ii) upon the receipt of a market or marketable limit order on the Exchange in the same series, or (iii) upon the receipt of a non-marketable limit order in the same series on the same side of the market as the Agency Order that would cause the price of the Crossing Transaction to be outside of the best bid or offer on the Exchange.

(d) Execution. At the end of the exposure period the Agency Order will be executed in full at the best prices available, taking into consideration orders and quotes in the Exchange market, Improvement Orders, Customer Participation Orders (see Supplementary Material .06 below) and the Counter-Side Order. The Agency Order will receive executions at multiple price levels if there is insufficient size to execute the entire order at the best price.

(1) At a given price, Public Customer interest is executed in full before any Non-Customer interest.

(2) After Public Customer interest at a given price, agency orders for the account of non-Member broker-dealers will be executed in full before any proprietary interest of Members (i.e., proprietary interest from Electronic Access Members and Exchange market makers).

(3) After Public Customer interest and agency orders for the account of non-Member broker-dealers, Member proprietary interest will participate in the execution of the Agency Order based upon the percentage of the total number of contracts available at the price that is represented by the size of the Non-Customer's interest.

(4) In the case where the Counter-Side Order is at the same price as Member interest in (d)(3), the Counter-Side order will be allocated the greater

of one (1) contract or forty percent (40%) of the initial size of the Agency Order before other Member interest is executed.

(5) When a market order or marketable limit order on the opposite side of the market from the Agency Order ends the exposure period, it will participate in the execution of the Agency Order at the price that is mid-way between the best counter-side interest and the NBBO, so that both the market or marketable limit order and the Agency Order receive price improvement. Transactions will be rounded, when necessary, to the \$.01 increment that favors the Agency Order.

(6) When a market order or marketable limit order on the same side of the market as the Agency Order ends the exposure period, it will execute against any unexecuted interest in the Price Improvement Mechanism after the Agency Order is executed in full, so that the market order or marketable limit order receives an opportunity for price improvement. The execution will be handled as provided in subparagraphs (1), (2) and (3) of this paragraph (d). Subparagraph (4) of this paragraph (d) will not apply.

### ***Supplementary Material to Rule 723***

.01 It shall be considered conduct inconsistent with just and equitable principles of trade for any Member to enter orders, quotes, Agency Orders, Counter-Side Orders or Improvement Orders for the purpose of disrupting or manipulating the Price Improvement Mechanism. Such conduct includes, but is not limited to, engaging in a pattern of conduct where the Member submitting the Agency Order into the PIM breaks-up the Agency Order into separate orders for two (2) or fewer contracts for the purpose of gaining a higher allocation percentage than the Member would have otherwise received in accordance with the allocation procedures contained in paragraph (d) above.

.02 The Price Improvement Mechanism may only be used to execute bona fide Crossing Transactions.

.03 Initially, and for at least a Pilot Period expiring on July 18, 2007, there will be no minimum size requirements for order to be eligible for the Price Improvement Mechanism. During the Pilot Period, the Exchange will submit certain data, periodically as required by the Commission, to provide supporting evidence that, among other things, there is meaningful competition for all size order within the Price Improvement Mechanism, that there is significant price improvement for all orders executed through the Price Improvement Mechanism, and that there is an active and liquid market functioning on the Exchange outside of the Price Improvement Mechanism. Any data which is submitted to the Commission will be provided on a confidential basis.

.04 Only one PIM may be ongoing at any given time in a series. PIMs will not queue or overlap in any manner.

.05 Paragraphs (c)(5), (d)(5) and (d)(6) will be effective for a Pilot Period expiring on July 18, 2007. During the Pilot Period, the Exchange will submit certain data relating to the frequency with which the exposure period is terminated by unrelated orders. Any data which is submitted to the Commission will be provided on a confidential basis.

.06 Pursuant to Rule 723(c)(2), Electronic Access Members may enter Improvement Orders for the account of Public Customers. Without limiting the foregoing, Electronic Access Members may enter Improvement Orders with respect to CPOs (as defined in Rule 715(f)). An Improvement Order can be entered with respect to a CPO if: (1) the limit order price of the CPO is equal to the best bid or offer on the Exchange at the time the PIM is initiated; and (2) the CPO is on the same side of the market as the Counter-Side Order. The Improvement Order must be entered for the existing size of the limit order up to the size of the Agency Order and for the price of the Participation Interest.

.07 Any solicited Counter-Side Orders submitted by an Electronic Access Member to trade against Agency Orders may not be for the account of an ISE market maker assigned to the options class.

[Adopted December 9, 2004 (SR-ISE-2003-06); amended March 23, 2005 (SR-ISE-2005-15); amended July 13, 2005 (SR-ISE-2005-30); amended August 31, 2005 (SR-ISE-2005-41); amended July 14, 2006 (SR-ISE-2006-39); amended October 23, 2006 (SR-ISE-2004-17).]

## CHAPTER 8

### Market Makers

#### **Rule 800. Registration of Market Makers**

(a) A market maker is a Member 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. Registered market makers are designated as specialists on the Exchange for all purposes under the Exchange Act and the rules and regulations thereunder.

(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.

[Adopted February 24, 2000; amended February 11, 2002, effective March 13, 2002 (SR-ISE-2002-04); amended May 1, 2002 (SR-ISE-2002-01).]

#### **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 Members 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.

[Adopted February 24, 2000; amended May 1, 2002 (SR-ISE-2002-01).]

**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. The Board or designated committee shall make appointments in the best interest of the Exchange to provide competitive markets.

(b) (1) The Board or designated committee will allocate equity 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.

(2) The Board or designated committee will allocate options on indices and Fund Shares (collectively “Index-Based Products”) to a Primary Market Maker and to as many Competitive Market Makers that request appointment to the Index-Based Product, subject to paragraph (f) below. A Primary Market Maker seeking allocation of an Index-Based Product shall provide specific performance commitments, which shall include, at a minimum, commitments regarding (i) the average quotation size it will disseminate in the Index-Based Product, and (ii) the maximum quotation spread it will disseminate in such product at least ninety percent of the time.

(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. In the case of an Index-Based Product, during the term of that appointment, the Board or designated committee may also base a decision to suspend or terminate a Primary Market Maker’s appointment on the failure of the Primary Market Maker to meet the terms of its commitments under paragraph (b)(2) above.

(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.

**Supplementary Material to Rule 802**

.01 Pursuant to paragraph (b)(2) of Rule 802, a Primary Market Maker shall specify the average size and maximum quotation spread to which it will commit on a quarterly basis for four successive calendar quarters. The Primary Market Maker may specify differing size and quotation commitments for different series of an options class, such as by committing to a larger size and narrower quotations for the at-the-money series or series nearer to expiration. A Primary Market Maker also may, but is not required to, provide commitments regarding marketing or other support with respect to the Index-Based Product. In addition, a Primary Market Maker may, but is not required to, provide information regarding order flow arrangements with order flow providers. When an Index-Based Product is allocated to a Primary Market Maker, that Primary Market Maker's size and spread quotations for the fourth quarter following listing shall remain in effect thereafter on a quarter-to-quarter basis unless the Primary Market Maker has requested, and the Board or designated committee has approved, a change in such commitments. Any other commitments that a Primary Market Maker has made also shall remain in effect until modified by the Board or designated committee upon the request of the Primary Market Maker.

[Adopted February 24, 2000; amended May 6, 2005 (SR-ISE-2004-40).]

**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.

An Exchange Official designated by the Board may waive the provisions of subparagraphs (1) and (2) in an index option when the primary underlying securities market for that index is not trading.

(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 \$5 between the bid and offer following the opening rotation in an equity or index options contract. Prior to the opening rotation, spread differentials shall be 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.

(i) The bid/offer differentials stated in subparagraph (b)(4) of this Rule 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.

(ii) The Exchange or its authorized agent may calculate bids and asks for various indices for the sole purpose of determining permissible bid/ask differentials on options on these indices. These values will be calculated by determining the weighted average of the bids and asks for the components of the corresponding index. These bids and

asks will be disseminated by the Exchange at least every fifteen (15) seconds during the trading day solely for the purpose of determining the permissible bid/ask differential that market-makers may quote on an in-the-money option on the indices. For in-the-money series in index options where the calculated bid/ask differential is wider than the applicable differential set out in subparagraph (b)(4) of this Rule, the bid/ask differential in the index options series may be as wide as the calculated bid/ask differential in the underlying index. The Exchange will not make a market in the basket of stock comprising the indices and is not guaranteeing the accuracy or the availability of the bid/ask values.

(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) Reserved.

(2) As soon as practical, 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, either (i) by executing a Public Customer Order at a price that matches the best price displayed or (ii) by sending to any other exchange(s) displaying the best price a Linkage Order(s) according to the Rules contained in Chapter 19 or (iii) by executing a Public Customer Order at a price one minimum quoting increment inferior to the NBBO and contemporaneously sending a Linkage Order(s) to each exchange(s) disseminating the NBBO according to the Rules contained in Chapter 19.

(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.

### **Supplementary Material To Rule 803**

.01 A Primary Market Maker must act with due diligence in handling orders of Public Customers and must accord priority to such orders addressed pursuant to paragraph (c) of this Rule over the Primary Market Maker's principal orders.

.02 Any Member that is approved to act in the capacity of a Primary Market Maker may voluntarily act as a "Back-Up Primary Market Maker" in options series in which it is quoting as a Competitive Market Maker.

(a) A Back-Up Primary Market Maker assumes all of the responsibilities and privileges of a Primary Market Maker under the Rules with respect to any series in which the appointed Primary Market Maker fails to have a quote in the System.

(b) If more than one Competitive Market Maker that has volunteered to be a Back-Up Primary Market Maker is quoting in an options series at the time that a Primary Market Maker ceases quoting, the Competitive Market Maker with the largest offer at the lowest price in the series at that time will be chosen to be the Back-Up Primary Market Maker. In the event of a tie based on price and size, the Competitive Market Maker with time priority will be automatically chosen.

(c) The Back-Up Primary Market Maker is automatically restored to Competitive Market Maker status when the appointed Primary Market Maker initiates quoting in the series, provided however that the Back-Up Primary Market Maker will continue to have responsibility for any outstanding unexecuted orders it is handling pursuant to Rule 803(c)(2) until such orders are executed.

[Adopted February 24, 2000; amended May 24, 2001(SR-ISE-2001-14); affirmation of SR-ISE-2001-14 approved July 29, 2002 (SR-ISE-2002-06); amended March 19, 2003 (SR-ISE-2001-15); amended August 25, 2003 (SR-ISE-2003-05); amended September 22, 2003 (SR-ISE-2003-21); amended November 7, 2003 (SR-ISE-2003-03); amended April 22, 2004 (SR-ISE-2004-26); amended January 29, 2004 (SR-ISE-2004-02); amended March 31, 2004 (SR-ISE-2004-10); amended July 14, 2004 (SR-ISE-2003-22); amended September 19, 2005 (SR-ISE-2005-44); amended March 6, 2006 (SR-ISE-2005-50).]

### **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 or sell upon receipt of an order or upon interaction with a quotation entered by another market maker on the Exchange. Unless

the Exchange has declared a fast market pursuant to Rule 704, a market maker may not initially enter a bid or offer of less than ten (10) contracts.

(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 orders and Exchange market maker quotations both under this Rule and Rule 602 of Regulation NMS under the Exchange Act ("Rule 602 of Reg NMS") for the number of contracts specified according to the requirements of paragraph (b) above. Market maker bids and offers are not firm under this Rule and Rule 602 of Reg NMS if:

(i) a system malfunction or other circumstance impairs the Exchange's ability to disseminate or update market quotes in a timely and accurate manner;

(ii) 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;

(iii) during trading rotations; or

(iv) any of the circumstances provided in paragraph (c)(3) of Rule 602 of Reg NMS exist.

(2) Notwithstanding Paragraph (1) above, if a market maker's bid (offer) can trade with the offer (bid) of another market maker, the Exchange shall have the authority to implement a delay so that no execution shall occur between such quotations for a period of no more than one second. During such period, the System will update quotations that may be received; provided however, that during such period all quotations shall otherwise remain firm and the System shall automatically execute all incoming orders against such quotations.

(3) Within thirty seconds of receipt of an order to buy or sell an option in an amount greater than the Order Execution Size, or within thirty seconds of another Exchange market maker entering a quotation at a price executable against the market maker's quotation, that portion of the order equal to the Order Execution Size, or the Quotation Execution Size, as the case may be, 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 all of the series listed on the Exchange of at least sixty percent (60%) of the options classes for the Group to which the Competitive Market Maker is appointed or 60 options classes in the Group, whichever is lesser.

(ii) Whenever a Competitive Market Maker enters a quote in an options class to which it is appointed, it must maintain continuous quotations for all series of the options class listed on the Exchange until the close of trading that day.

(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.

(g) *Automated Quotation Adjustments.* A market maker may establish parameters by which the Exchange will automatically restate:

(1) the prices of a market maker's quotations in all series of an options class, at prices specified by the market maker, if the market maker trades, in the aggregate, a specified number of contracts (established by the market maker), within an Exchange-established time frame, in that class;

(2) the price of a market maker's quotations in an options series if the number of contracts that the market maker is willing to buy or sell at a specified price is exhausted; and

(3) the size of a market maker's quotation in an options series to 10 contracts if, as a result of an execution in that series, the market maker's quotation is decremented below that size and the Exchange's best bid (offer) would be less than 10 contracts.

(h) In order to control the number of quotations the Exchange disseminates, the Exchange shall utilize a mechanism so that newly-received quotations and other changes to the Exchange's best bid and offer are not disseminated for a period of up to, but not more than one second.

[Adopted February 24, 2000; amended April 2, 2001 (SR-ISE-2001-07); amended April 25, 2002 (SR-ISE-2001-32); amended June 26, 2002 (SR-ISE-2002-17); amended January 21, 2003 (SR-ISE-2002-24); amended February 19, 2004 (SR-ISE-2003-34); amended April 22, 2004 (SR-ISE-2003-26); amended June 28, 2004 (SR-ISE-2004-24); amended January 18, 2005 (SR-ISE-2004-31); amended June 10, 2005 (SR-ISE-2005-18); amended December 22, 2005 (SR-ISE-2005-48); amended January 24, 2007 (SR-ISE-2006-62).]

**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) 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

(ii) the market maker does not enter orders in options classes to which it 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.

[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); amended May 1, 2002 (SR-ISE-2002-01); amended January 21, 2003 (SR-ISE-2002-24); amended April 22, 2004 (SR-ISE-2003-26); amended March 23, 2005 (SR-ISE-2005-15).]

### **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.* A Primary Market Maker in the Fund Shares, as defined in Rule 502(h), is obligated to conduct all trading in the Fund Shares in account(s) that have been reported to the Exchange. In addition, 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, non-U.S. currency, non-U.S. currency options, futures or options on futures on such currency, or any other derivatives based on such currency 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, non-U.S. currency, non-U.S. currency options, futures or options on futures on such currency, or any other derivatives based on such currency 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 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.

[Adopted February 24, 2000; amended May 1, 2002 (SR-ISE-2002-01); amended June 30, 2006 (SR-ISE-2005-60).]

### **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**

(a) *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 an Information Barrier between the market making activities and the Other Business Activities. "Other Business Activities" means:

- (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) handling listed options orders as agent on behalf of Public Customers or broker-dealers;
- (4) conducting non-market making proprietary listed options trading activities.

(b) *Information Barrier.* For the purposes of this rule, an Information Barrier 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 barrier from influencing the conduct of persons on the other side of the barrier. 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 Information Barrier.

(3) Persons on one side of the barrier may not exercise influence or control over persons on the other side of the barrier, 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.

(c) *Documenting and Reporting of Information Barrier Procedures.* A Member implementing an Information Barrier 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 Information Barrier 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 Information Barrier, 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.

(d) *Exchange Approval of Information Barrier 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 Information Barrier procedures acceptable, a market maker may not conduct Other Business Activities.

(e) *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 Information Barrier. 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) Exceptions to the Information Barrier Requirement.*

(1) A market maker shall be exempt from paragraph (a)(3) of this Rule to the extent the market maker complies with the following conditions:

(A) such Member handles orders as agent only for the account of entities that are affiliated with the Member and solely in options classes contained in Groups to which the Member is not appointed as a market maker pursuant to Rule 802 or in which the Member is prohibited from acting as a market maker pursuant to regulatory requirements; or

(B) such market maker handles orders as agent solely with respect to a Directed Order Program, as defined in Supplementary Material .01 below.

(2) A market maker shall be exempt from paragraph (a)(4) of this Rule to the extent the Member, or a broker-dealer with which such Member is affiliated:

(A) engages solely in proprietary trading and does not, under any circumstances, maintain customer accounts or solicit or accept orders or funds from or on behalf of Public Customers or broker-dealers; and

(B) does not participate in any Directed Order Programs, as defined in Supplementary Material .01 below, or utilize any other order types which call for the participation of, or interaction with, Public Customers or broker-dealers.

***Supplemental Material to Rule 810***

.01 For purposes of paragraph (f)(1)(B) and (f)(2)(B) of Rule 810 only, a Directed Order Program means rules of an options exchange that (1) permit an options market maker to handle orders directed to it anonymously through an exchange system; (2) require the market maker to accept directed orders from all sources eligible to direct orders using such exchange system; and (3) require the options market maker to execute such directed orders on such exchange under specified order handling procedures. A Directed Order Program shall not include any rules of an exchange that permit a market maker to accept orders directly, without being routed through an exchange system, from customers or another broker-dealer, nor any rules or system that allows a market maker to handle orders on a disclosed or discretionary basis.

[Adopted February 24, 2000; amended December 15, 2000 (SR-ISE-2000-09);

amended May 1, 2002 (SR-ISE-2002-01); amended September 23, 2004 (SR-ISE-2004-18).]

**Rule 811. Directed Orders**

(a) Definitions.

(1) A "Directed Order" is an order routed from an Electronic Access Member to an Exchange market maker through the Exchange's System.

(2) A "Directed Market Maker" is a market maker that receives a Directed Order.

(3) The "NBBO" is defined in Rule 1900.

(b) Exchange market makers may only receive and handle orders on an agency basis if they are Directed Orders and only in the manner prescribed in this Rule 811. A market maker can elect whether or not to accept Directed Orders on a daily basis. If a market maker elects to be a Directed Market Maker, it must accept Directed Orders from all Electronic Access Members. A Directed Market Maker cannot reject a Directed Order.

(c) Obligations of Directed Market Makers.

(1) Directed Market Makers must hold the interests of orders entrusted to them above their own interests and fulfill in a professional manner all other duties of an agent, including, but not limited to, ensuring that each such order, regardless of its size or source, receives proper representation and timely, best possible execution in accordance with the terms of the order and the rules and policies of the Exchange.

(2) Directed Market Makers must ensure that their acceptance and execution of Directed Orders as agent are in compliance with applicable Federal and Exchange rules and policies.

(3) Within three (3) seconds of receipt of a Directed Order, Directed Market Makers must either enter the Directed Order into the PIM pursuant to Rule 723 or release the Directed Order to the Exchange's limit order book pursuant to paragraph (e) of this Rule.

(i) If the Directed Market Maker is quoting at the NBBO on the opposite side of the Directed Order, the Directed Market Maker is prohibited from adjusting the price of its quote to a price that is less favorable than the price available at the NBBO or reducing the size of its quote prior to submitting the Directed Order to the PIM, unless such quote change is the result of an automated quotation system that operates independently from the existence or non-existence of a pending Directed

Order. Otherwise changing a quote on the opposite side of the Directed Order except as specifically permitted herein will be a violation of Rule 400 (Just and Equitable Principles of Trade).

(ii) If a Directed Market Maker fails to either enter a Directed Order into the PIM or release the order within three (3) seconds of its receipt, the Directed Order will be automatically released by the System and processed according to paragraph (e) of this Rule.

(d) Directed Market Maker Guarantee. If the Directed Market Maker is quoting at the NBBO on the opposite side of the market from a Directed Order at the time the Directed Order is received by the Directed Market Maker, and the Directed Order is marketable, the System will automatically guarantee execution of the Directed Order against the Directed Market Maker at the price and the size of its quote (the "Guarantee"). The Directed Market Maker cannot alter the Guarantee.

(e) Except as provided in this paragraph (e), when a Directed Order is released, the System processes the order in the same manner as any other order received by the Exchange. Directed Orders will not be automatically executed at a price that is inferior to the NBBO and, except as provided in subparagraph (e)(3), will be handled pursuant to Rule 803(c)(2) when the ISE best bid or offer is inferior to the NBBO.

(1) A marketable Directed Order will be matched against orders and quotes according to Rule 713 except that, at any given price level, the Directed Market Maker will be last in priority.

(i) If, after all other interest at the NBBO is executed in full, there is any remaining unexecuted quantity of the Directed Order and the Directed Market Maker is quoting at the NBBO or a Guarantee exists, a broadcast message will be sent to all Members. After three (3) seconds, any additional interest at the same or better price will be executed according to Rule 713.

(ii) If there continues to be any remaining unexecuted quantity of the Directed Order, it will be executed against any interest at the same price from the Directed Market Maker. If a Guarantee exists at that price, an execution will occur for at least the size of the Guarantee.

(iii) If there continues to be any remaining unexecuted quantity of the Directed Order and the Directed Order is marketable at the next price level without trading through the NBBO, the Directed Order will be allocated according to Rule 713 except that the Directed Market Maker will be last in priority. If an execution at any given price level would cause the Directed Order to be executed at a price inferior to the NBBO, the order will be presented to the PMM for handling according to Rule 803(c)(2).

(iv) Subparagraph (e)(1)(iii) will be repeated until the Directed Order is (A) fully executed, (B) presented to the Primary Market Maker for handling according to Rule 803(c)(2), or (C) no longer marketable, in which case it will be placed on the limit order book.

(2) If a Directed Order is not marketable at the time it is released:

(i) If a Guarantee exists, a broadcast message will be sent to all Members. After three (3) seconds, the Directed Order will be executed against any contra interest at the Guarantee price or better according to Rule 713. Thereafter, the Directed Order will be executed against the Directed Market Maker for at least the size of the Guarantee. If there is any remaining unexecuted quantity of the Directed Order, it will be placed on the Exchange's limit order book.

(ii) If no Guarantee exists, the Directed Order will be placed on the Exchange's limit order book. In this case, the Directed Market Maker may not enter a proprietary order to execute against the Directed Order during the three (3) seconds following the release of the Directed Order.

(3) If, at the time a Directed Order is released by the Directed Market Maker, the Directed Order is marketable but the ISE best bid or offer is inferior to the NBBO, and the Directed Market Maker is the Primary Market Maker in the option class for the Directed Order, then a broadcast message shall be sent to all Members displaying the Directed Order. After three (3) seconds, the Directed Order will be executed against any contra interest at the NBBO price or better according to Rule 713, except that the Directed Market Maker will be last in priority. Thereafter, if there is any remaining unexecuted quantity of the Directed Order, it will be presented to the Primary Market Maker for handling according to Rule 803(c)(2).

[Adopted August 24, 2005 (SR-ISE-2004-16); amended September 6, 2006 (SR-ISE-2006-51).]



## **CHAPTER 9**

### **Second Market**

#### **Rule 900. Definition of Second Market**

The “Second Market” refers to the trading of low volume equity options classes (excluding options on exchange traded funds) according to modified marketplace rules as provided in this Chapter 9. For purposes of this Chapter, the trading of all other securities on the Exchange is referred to as the “First Market.”

#### **Rule 901. Application of Exchange Rules to Second Market**

All of the Exchange’s Rules applicable to the listing and trading of equity options are applicable to the trading of options listed in the Second Market except as otherwise provided in this Chapter 9.

#### **Rule 902. Member Access to Second Market**

(a) Electronic Access Members. All Electronic Access Members may enter orders into the Second Market.

(b) Second Market Primary Market Maker (“SMPMM”). The Exchange will appoint one SMPMM for each options class traded in the Second Market. Only those Members that are approved to exercise the trading privileges associated with one or more Primary Market Maker Memberships are eligible to be appointed as a SMPMM for options classes listed in the Second Market. Such Primary Market Makers are automatically eligible for Second Market appointments so long as they pay the stated monthly access fee.

(c) Second Market Competitive Market Makers (“SMCMM”).

(1) There is no limitation on the number of Members that may participate in the Second Market as SMCMMs. SMCMMs are entitled to make markets in all options classes listed in the Second Market.

(2) Members that are approved to exercise the trading privileges associated with one or more Primary Market Maker Memberships or Competitive Market Maker Memberships are automatically eligible to participate in the Second Market as SMCMMs so long as they pay the stated monthly access fee.

(3) Members that are approved as Electronic Access Members are eligible to apply to become SMCMMs. Such Electronic Access Members must complete a market maker application, be approved by the Exchange, and pay the stated monthly access fee. The market maker application and standards for

approval shall be the same as those applicable to exercising the trading privileges associated with a Competitive Market Maker Membership.

**Rule 903. Second Market Listing**

(a) Listing Standards. All securities listed for trading in the Second Market must meet the initial listing and delisting criteria contained in Chapter 5.

(b) Initial Listings. All newly listed options classes that are traded on another options exchange and that had an average daily market volume below 500 contracts over the previous six (6) month period will be listed in the Second Market. The maximum average daily market volume for such options classes eligible for initial listing in the Second Market shall be 1500 contracts over the previous six (6) month period. Such newly listed options classes with an average daily market volume of 500 to 1500 contracts may be listed in either the First Market or Second Market as the Exchange deems appropriate.

(c) Listing Adjustments. Starting one (1) year after trading in the Second Market is initiated, the Exchange will review the market in which options classes are listed every three months. Options classes that are listed and trading in the First Market will be moved into the Second Market if the average daily volume over the prior six (6) month period is less than 300 contracts. Such options classes will remain in the Second Market for at least twelve (12) months before being returned to the First Market. Options classes will be moved out of the Second Market and into the First Market if the average daily volume over the prior six (6) month period exceeds 750 contracts.

**Rule 904. Market Maker Quotes and Orders**

(a) Quotes. Except as provided below, all of the requirements of Rules 803, 804, and 805 related to quoting obligations of Primary Market Makers and Competitive Market Makers apply to SMPMMs and SMCMMs respectively. For purposes of the Rules, SMCMMs are considered appointed to all of the options classes listed in the Second Market.

(1) SMCMMs are not required to make markets in a minimum number of options classes in the Second Market. SMCMMs may choose whether to make markets in one or more options classes traded in the Second Market on a daily basis.

(2) If an SMCMM chooses to make markets in one or more options classes in the Second Market, it must participate in the opening rotation and make markets and enter into any resulting transactions on a continuous basis in all of the series of the options class until the close of trading that day. SMCMMs may not initiate quoting in an options class intraday.

(b) Market Maker Orders.

(1) SMPMMs may enter orders in options classes listed in the Second Market to which they are not appointed, so long as the total number of contracts executed during a quarter by a SMPMM in Second Market options to which it is not appointed does not exceed ten percent (10%) of the total number of contracts it traded in the Second Market.

(2) SMCMMs may enter orders in options classes listed in the Second Market for which they are not currently making markets, so long as: (1) they are making markets in at least one options class listed in the Second Market at the time such orders are entered; and (2) the total number of contracts resulting from such orders does not exceed twenty five percent (25%) of the total number of contracts they executed in the Second Market during a quarter.

[Adopted October 6, 2006 (SR-ISE-2006-40).]

## **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 Members 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.

[Adopted February 24, 2000; amended May 1, 2002 (SR-ISE-2002-01).]

#### **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. Members may establish fixed procedures as to the latest time they will accept exercise instructions from customers.

(b) Special procedures apply to the exercise of equity options on the last business day before their expiration ("expiring options"). Unless waived by the Clearing Corporation, expiring options are subject to the Exercise-by-Exception ("Ex-by-Ex") procedure under Clearing Corporation Rule 805. This Rule provides that, unless contrary instructions are given, option contracts that are in-the-money by specified amounts shall be automatically exercised. In addition to the Rules of the Clearing Corporation, the following Exchange requirements apply with respect to expiring options. Option holders desiring to exercise or not exercise expiring options must either:

(1) take no action and allow exercise determinations to be made in accordance with the Clearing Corporation's Ex-by-Ex procedure where applicable; or

(2) submit a "Contrary Exercise Advice" to the Exchange by the deadline specified in paragraph (c) below. A Contrary Exercise Advice is a communication either: (A) to not exercise an option that would be automatically exercised under the Clearing Corporation's Ex-by-Ex procedure, or (B) to exercise an option that would not be automatically exercised under the Clearing Corporation's Ex-by-Ex procedure. A Contrary Exercise Advice may be submitted by a Member by using the Exchange's Contrary Exercise Advice Form, the Clearing Corporation's ENCORE system, a Contrary Exercise Advice form of any other national securities exchange of which the firm is a member and where the option is listed, or such other method as the Exchange may prescribe. A Contrary Exercise Advice may be canceled by filing an "Advice Cancel" with the Exchange or resubmitted at any time up to the submission cut-off times specified below.

(c) Exercise cut-off time. Option holders have until 5:30 p.m. Eastern Time on the business day immediately prior to the expiration date or, in the case of Quarterly Options Series, on the expiration date, to make a final decision to exercise or not exercise an expiring option. For customer accounts, Members may not accept exercise instructions after 5:30 p.m. Eastern Time but have until 6:30 p.m. Eastern Time to submit a Contrary Exercise Advice. For non-customer accounts, Members may not accept exercise instructions after 5:30 p.m. Eastern Time but have until 6:30 p.m. Eastern Time to submit a Contrary Exercise Advice if such Member employs an electronic submission procedure with time stamp for the submission of exercise instructions by option holders. Consistent with Supplemental Material .03, Members are required to submit a Contrary Exercise Advice by 5:30 p.m. for non-customer accounts if such Members do not employ an electronic submission procedure with time stamp for the submission of exercise instructions by option holders.

(d) If the Clearing Corporation has waived the Ex-by-Ex procedure for an options class, Members must either:

(1) submit to the Exchange, a Contrary Exercise Advice, in a manner specified by the Exchange, within the time limits specified in paragraph (c) above if the holder intends to exercise the option; or

(2) take no action and allow the option to expire without being exercised.

In cases where the Ex-by-Ex procedure has been waived, the Rules of the Clearing Corporation require that Members wishing to exercise such options must submit an affirmative Exercise Notice to the Clearing Corporation, whether or not a Contrary Exercise Advice has been filed with the Exchange.

(e) A Member that has accepted the responsibility to indicate final exercise decisions on behalf of another Member or non-member broker-dealer shall take the necessary steps to ensure that such decisions are properly indicated to the Exchange. Such Member may establish a processing cut-off time prior to the Exchange's exercise cut-off time at which it will no longer accept final exercise decisions in expiring options from option holders for whom it indicates final exercise decisions. Each Member that indicates final exercise decisions through another broker-dealer is responsible for ensuring that final exercise decisions for all of its proprietary (including market maker) and public customer account positions are indicated in a timely manner to such broker-dealer.

(f) Notwithstanding the foregoing, Members may make final exercise decisions after the exercise cut-off time but prior to expiration without having submitted a Contrary Exercise Advice 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 and a copy thereof shall be filed with the Exchange no later

than 12:00 noon Eastern Time on the first business day following the respective expiration. An exercise decision after the exercise cut-off time may be made:

(1) in order to remedy mistakes or errors made in good faith; or

(2) where exceptional circumstances have restricted an option holder's ability to inform a Member of a decision regarding exercise, or a Member's ability to receive an option holder's decision by the cut-off time. The burden of establishing any of the above exceptions rests solely on the member seeking to rely on such exceptions.

(g) In the event the Exchange provides advance notice on or before 5:30 p.m. Eastern Time on the business day immediately prior to the last business day before the expiration date indicating that a modified time for the close of trading in equity options on such last business day before expiration will occur, then the deadline to make a final decision to exercise or not exercise an expiring option shall be 1 hour 30 minutes following the time announced for the close of trading on that day instead of the 5:30 p.m. Eastern Time deadline found in Rule 1100(c). However, Members may deliver a Contrary Exercise Advice or Advice Cancel to the Exchange within 2 hours 30 minutes following the time announced for the close of trading in equity options on that day instead of the 6:30 p.m. Eastern Time deadline found in Rule 1100(c) for customer accounts and non-customer accounts where such Member employs an electronic submission procedure with time stamp for the submission of exercise instructions. For non-customer accounts, Members that do not employ an electronic procedure with time stamp for the submission of exercise instructions are required to deliver a Contrary Exercise Advice or Advice Cancel within 1 hour and 30 minutes following the time announced for the close of trading on that day instead of the 5:30 p.m. Eastern Time deadline found in Rule 1100(c).

(h) Modification of cut-off time.

(1) The Exchange may establish extended cut-off times for decision to exercise or not exercise an expiring option and for the submission of Contrary Exercise Advices on a case-by-case basis due to unusual circumstances. For purposes of this subparagraph (h)(1), an "unusual circumstance" includes, but is not limited to, increased market volatility; significant order imbalances; significant volume surges and/or systems capacity constraints; significant spreads between the bid and offer in underlying securities; internal system malfunctions affecting the ability to disseminate or update market quotes and/or deliver orders; or other similar occurrences.

(2) The Exchange with at least one (1) business day prior advance notice, by 12:00 noon on such day, may establish a reduced cut-off time for the decision to exercise or not exercise an expiring option and for the submission of Contrary Exercise Advices on a case-by-case basis due to unusual circumstances; provided, however, that under no circumstances should the exercise cut-off time and the time for submission of a Contrary Exercise Advice be before the close of trading. For purposes of this subparagraph (h)(2), an

"unusual circumstance" includes, but is not limited to, a significant news announcement concerning the underlying security of an option contract that is scheduled to be released just after the close on the business day immediately prior to expiration.

(i) Submitting or preparing an exercise instruction, contrary exercise advice or advice cancel after the applicable exercise cut-off time in any expiring options on the basis of material information released after the cut-off time is activity inconsistent with just and equitable principles of trade.

(j) The failure of any Member to follow the procedures in this Rule 1100 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.

### ***Supplementary Material to Rule 1100***

.01 For purposes of this Rule 1100, the terms "customer account" and "non-customer account" have the same meaning as defined in the Clearing Corporation By-Laws Article I(C)(28) and Article I(N)(2), respectively.

.02 Each Member shall prepare a memorandum of every exercise instruction received showing the time when such instruction was so received. Such memoranda shall be subject to the requirements of SEC Rule 17a-4(b).

.03 Although the deadline for all option holders to make a final decision to exercise or not exercise is 5:30 p.m. Eastern Time, the deadline for the submission of the Contrary Exercise Advice in the case of non-customer accounts will depend on the manner of the decision to exercise or not exercise.

(i) For electronic time stamp submissions of the exercise decision by non-customer option holders, a Contrary Exercise Advice submitted by Members must be received by the Exchange by 6:30 p.m. Eastern Time.

(ii) For manual submissions of the exercise decision by non-customer option holders, a Contrary Exercise Advice submitted by Members must be received by the Exchange by 5:30 p.m. Eastern Time.

.04 Each Member shall establish fixed procedures to insure secure time stamps in connection with their electronic systems employed for the recording of submissions to exercise or not exercise expiring options.

.05 The filing of a Contrary Exercise Advice required by this Rule does not serve to substitute as the effective notice to the Clearing Corporation for the exercise or non-exercise of expiring options.

[Adopted February 24, 2000; amended May 1, 2002 (SR-ISE-2002-01); amended



September 17, 2003 (SR-ISE-2003-20); amended February 13, 2006 (SR-ISE-2006-11); amended September 26, 2006 (SR-ISE-2006-58).]

**Rule 1101. Allocation of Exercise Notices**

(a) Each Member shall establish fixed procedures for the allocation of exercise notices assigned in respect of a short position in such Member'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 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 shall report its proposed method of allocation to the Exchange and obtain the Exchange's prior approval thereof, and no Member 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 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.

[Adopted February 24, 2000; amended May 1, 2002 (SR-ISE-2002-01).]

**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 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 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.

(h) Clearing Members must follow the procedures of the Clearing Corporation when exercising American-style cash-settled index options contracts issued or to be issued in any account at the Clearing Corporation. Members must also follow the procedures set forth below with respect to American-style cash-settled index options:

(1) For all contracts exercised by the Member or by any customer of the Member, an "exercise advice" must be delivered by the Member in such form or manner prescribed by the Exchange no later than 4:20 p.m. Eastern time, or if trading hours are extended or modified in the applicable options class, no later than five (5) minutes after the close of trading on that day.

(2) Subsequent to the delivery of an "exercise," should the Member or a customer of the Member determine not to exercise all or part of the advised contracts, the Member must also deliver an "advice cancel" in such form or manner prescribed by the Exchange no later than 4:20 p.m. Eastern time, or if trading hours are extended or modified in the applicable options class, no later than five (5) minutes after the close of trading on that day.

(3) An Exchange official designated by the Board may determine to extend the applicable deadline for the delivery of "exercise advice" and "advice cancel" notifications pursuant to this paragraph (h) if unusual circumstances are present.

(4) No Member may prepare, time stamp or submit an "exercise advice" prior to the purchase of the contracts to be exercised if the Member knew or had reason to know that the contracts had not yet been purchased.

(5) The failure of any Member to follow the procedures in this paragraph (h) 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.

(6) Preparing or submitting an "exercise advice" or "advice cancel" after the applicable deadline on the basis of material information released after such deadline, in addition to constituting a violation of this Rule, is activity inconsistent with just and equitable principles of trade.

(7) The procedures set forth in subparagraphs (1)-(2) of this subparagraph (h) do not apply (i) on the business day prior to expiration in series expiring on a day other than a business day or (ii) on the expiration day in series expiring on a business day.

(8) Exercises of American-style, cash-settled index options (and the submission of corresponding "exercise advice" and "advice cancel" forms) shall be prohibited during any time when trading in such options is delayed, halted, or suspended, subject to the following exceptions:

(i) The exercise of an American-style, cash-settled index option may be processed and given effect in accordance with and subject to the rules of the Clearing Corporation while trading in the option is delayed, halted, or suspended if it can be documented, in a form prescribed by the Exchange, that the decision to exercise the option was made during allowable time frames prior to the delay, halt, or suspension.

(ii) Exercises of expiring American-style, cash-settled index options shall not be prohibited on the last business day prior to their expiration.

(iii) Exercises of American-style, cash-settled index options shall not be prohibited during a trading halt that occurs at or after 4:00 p.m. Eastern time. In the event of such a trading halt, exercises may occur through 4:20 p.m. Eastern time. In addition, if trading resumes following such a trading halt (such as by closing rotation), exercises may occur during the resumption of trading and for five (5) minutes after the close of the resumption of trading. The provisions of this subparagraph (iii) are subject to the authority of the Board to impose restrictions on transactions and exercises pursuant to Rule 417.

(iv) An Exchange official designated by the Board may determine to permit the exercise of American-style, cash-settled index options while trading in such options is delayed, halted, or suspended.

[Adopted February 24, 2000; amended May 1, 2002 (SR-ISE-2002-01); amended August 25, 2003 (SR-ISE-2003-05.)]

## 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 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 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.

[Adopted February 24, 2000; amended May 1, 2002 (SR-ISE-2002-01).]

#### **Rule 1203. Meeting Margin Calls by Liquidation Prohibited**

(a) No Member 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 of the Exchange or has agreed in good faith with the Member carrying the account that it will maintain a record equivalent to that referred to in Rule 1205.

[Adopted February 24, 2000; amended May 1, 2002 (SR-ISE-2002-01).]

**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 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.

[Adopted February 24, 2000; amended May 1, 2002 (SR-ISE-2002-01).]

## 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 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.

[Adopted February 24, 2000; amended May 1, 2002 (SR-ISE-2002-01).]

#### Rule 1303. Joint Back Office Arrangements

An arrangement may be established between two or more registered broker-dealers pursuant to Regulation T Section 220.7 to form a joint back office (“JBO”) arrangement for carrying and clearing or carry accounts of participating broker-dealers. Members must provide written notification to their Designated Examining Authority prior to establishing a JBO arrangement.

(a) A carrying and clearing, or carry member must:

(1) maintain a minimum tentative net capital of \$25 million as computed pursuant to Rule 15c3-1 of the Exchange Act, except that a member whose primary business consists of the clearance of options market maker accounts, may carry JBO accounts provided that it maintains a minimum net capital of \$7 million as computed pursuant to Rule 15c3-1 of the Exchange Act. In addition, the member must include in its ratio of gross options market maker deductions to net capital required by the provisions of Rule 15c3-1 of the Exchange Act, gross deductions for JBO participant accounts. Clearance of option market maker accounts shall be deemed a broker-dealer's primary business if a minimum of 60% of the aggregate deductions in the above ratio are options market maker deductions. In the event that a carrying and clearing, or carrying member's tentative net capital, or net capital, respectively, has fallen below the above requirements, the member shall (i) promptly notify the Exchange in writing of such deficiency and (ii) take appropriate action to resolve such deficiency within three consecutive business days, or not permit any new transactions to be entered into pursuant to the JBO agreement;

(2) maintain a written risk analysis methodology for assessing the amount of credit extended to participating broker-dealers which shall be made available to the Exchange upon request; and

(3) deduct from net capital haircut requirements pursuant to Rule 15c3-1 of the Exchange Act in excess of the equity maintained in the accounts of the participating broker-dealers.

(b) A participating broker-dealer must:

(1) be a registered broker-dealer subject to the SEC's net capital rule;

(2) maintain an ownership interest in the carrying/clearing member pursuant to Regulation T of the Federal Reserve Board Section 220.7; and

(3) maintain a minimum liquidating equity of \$1 million in the JBO arrangement exclusive of the ownership interest established in subparagraph (b)(2) above. When the minimum liquidating equity decreases below the \$1 million requirement, the participant must deposit an amount sufficient to eliminate this deficiency within five (5) business days or be subject to the margin account requirements prescribed for customers in Regulation T, and the margin requirements pursuant to Exchange Rule 1202.

[Adopted February 13, 2002, effective March 15, 2002 (SR-ISE-2002-05).]

## 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.

#### **Supplementary Material to Rule 1400**

.01 In addition to the existing obligations under Exchange rules regarding the production of books and records, a Primary Market Maker in non-U.S. currency options, futures or options on futures on such currency, or any other derivatives based on such currency, shall make available to the Exchange such books, records or other information pertaining to transactions in the applicable non-U.S.-currency options, futures or options on futures on such currency, or any other derivatives on such currency, as may be requested by the Exchange.

[Adopted February 24, 2000; amended June 30, 2006 (SR-ISE-2005-60).]

#### **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 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 that is a partnership and by two executive officers in the case of a Member that is a corporation or LLC 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.

[Adopted February 24, 2000; amended May 1, 2002 (SR-ISE-2002-01).]

#### **Rule 1404. Automated Submission of Trade Data**

A Member 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 for any account in which such Member, 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 submitting the data;

(2) Clearing house number(s) or alpha symbol(s) as may be used from time to time, of the Member(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 for any customer account, such Member 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 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.

[Adopted February 24, 2000; amended May 1, 2002 (SR-ISE-2002-01).]

**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'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 shall provide to the Exchange such information as it may reasonably require with respect to the Member's risk analysis for any or all of its market maker accounts.

[Adopted February 24, 2000; amended May 1, 2002 (SR-ISE-2002-01).]

**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) The Exchange may enter into one or more agreements with another SRO to provide regulatory services to the Exchange to assist the Exchange in discharging its obligations under Section 6 and Section 19(g) of the Exchange Act. Any action taken by another SRO, or its employees or authorized agents, acting on behalf of the Exchange pursuant to a regulatory services agreement shall be deemed to be an action taken by the Exchange; provided, however, that nothing in this provision shall affect the oversight of such other SRO by the SEC. Notwithstanding the fact that the Exchange may enter into one or more regulatory services agreements, the Exchange shall retain ultimate legal responsibility for, and control of, its self-regulatory responsibilities, and any such regulatory services agreement shall so provide.

(c) 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.

(d) 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).

[Adopted February 24, 2000; amended May 31, 2006 (SR-ISE-2006-34); amended August 3, 2006 (SR-ISE-2006-34).]

**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 or included in an index underlying a class of index 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:

(i) 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; and

(ii) in the case of an index option, (A) the designated Nasdaq National Market security sold short is a component security of the index underlying such index option, (B) at least ten percent (10%) of the value of the index underlying such index option is represented by one or more designated Nasdaq National Market securities, and (C) the current aggregate value of the designated Nasdaq National Market securities sold short does not exceed the aggregate current index value of the index options position being hedged. Notwithstanding the foregoing, a transaction unrelated to normal options market making activity, such as index arbitrage or risk arbitrage that in either case is independent of a market maker's market making functions, will not be considered an "exempt hedge transaction." Once an underlying index has satisfied the ten percent (10%) test in this subparagraph (ii), the continued qualification of the index shall be reviewed as of the end of each calendar quarter, and the index shall cease to qualify if the value of the index represented by

one or more designated Nasdaq National Market securities is less than eight percent (8%) at the end of any subsequent calendar quarter.

(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 constitute 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.

[Adopted February 24, 2000; amended August 25, 2003 (SR-ISE-2003-05).]

**Rule 1408. Fingerprint-Based Background Checks of Exchange Employees and Independent Contractors and Other Service Providers**

(a) In order to enhance the physical security of the facilities, records, systems, data, and information of the Exchange, it shall be the policy of the Exchange to conduct a fingerprint-based criminal records check of (i) all Exchange employees, including temporary employees who have or are anticipated to have access to Exchange facilities for at least ten (10) days, and (ii) all independent contractors and other service providers who have access to Exchange facilities, records, systems, data or other information which places the security of the Exchange at risk. However, the Exchange may determine not to obtain fingerprints from, or to seek criminal history record information with respect to, any of the foregoing individuals, due to their restricted or supervised access to the Exchange's facilities, records, systems, data and other information.

(b) The Exchange shall submit fingerprints obtained pursuant to this Rule to the Attorney General of the United States or his or her designee for identification and processing. The Exchange shall at all times maintain the security of fingerprints and information received from the Attorney General or his or her designee.

(c) The Exchange shall evaluate information received from the Attorney General or his or her designee in accordance with the terms of a written fingerprint policy and provisions of applicable law. A felony or serious misdemeanor conviction will be a factor in considering whether to take adverse employment action with respect to an employee or to deny an independent contractor or other service provider access to the Exchange's facilities, records, systems, data or other information.

(d) Any employee who refuses to submit to fingerprinting shall be terminated following notice and being given three opportunities to submit. Any person who is given an offer of employment with the Exchange that is conditioned upon submitting to fingerprinting but refuses to do so will have the offer withdrawn. Any independent contractor or other service provider who refuses to submit to fingerprinting shall be denied access, or shall be given restricted or supervised access, to Exchange facilities, records, systems, data or other information.

[Adopted December 18, 2003 (SR-ISE-2003-29).]



## 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 307(a)(2), unless such Member sells or leases such Membership.

[Adopted February 24, 2000; amended May 1, 2002 (SR-ISE-2002-01).]

**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 being a Member of the Exchange.

[Adopted February 24, 2000; amended May 1, 2002 (SR-ISE-2002-01).]

## 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 Member's termination or the person's termination of 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); amended May 1, 2002 (SR-ISE-2002-01).]

#### **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 412).

(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 any twelve-month rolling period in all of that Member’s customer accounts are to be added together.

For violations of Rule 412 occurring in customer accounts, the Member shall be subject to fines as follows:

Number of Cumulative Violations Within Any Twelve-Month Rolling Period*	Sanction
First Offense	Letter of Caution
Second Offense	\$500
Third Offense	\$1,000
Fourth and Each Subsequent Offense	\$2,500

(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:

Number of Violations Within Any Twelve-Month Rolling Period*	Sanction
First Offense	Letter of Caution
Second Offense	\$1,000
Third Offense	\$2,500
Fourth and Each Subsequent Offense	\$5,000

\* A violation that consists of (i) a 1 trade date overage, (ii) a consecutive string of trade date overage violations where the position does not change or where a steady reduction in the overage occurs, or (iii) a consecutive string of trade date overage violations resulting from other mitigating circumstances, may be deemed to constitute one offense, provided that the violations are inadvertent.

(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
2 <sup>nd</sup> Offense	\$500
3 <sup>rd</sup> Offense	\$1,000
4 <sup>th</sup> 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 Members 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), (d)-(f) regarding limitations on orders entered into the System by Electronic Access Members, as well as violations of Rule 805(b)(1)(i) regarding 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
1 <sup>st</sup> Offense	Letter of Caution
2 <sup>nd</sup> Offense	\$500
3 <sup>rd</sup> Offense	\$1,000
4 <sup>th</sup> Offense	\$2,500
Subsequent Offenses	Formal Disciplinary Action

(8) Mandatory Systems Testing (Rule 419). Failure to conduct or participate in the testing of computer systems, or failure to provide required reports or maintain required documentation, shall be subject to the fines listed below.

Violations Within One Calendar Year	Sanction
First Violation	\$250
Second Violation	\$500
Third Violation	\$1000
Fourth Violation	\$2000
Fifth Violation or more	Formal Disciplinary Action

[Adopted February 24, 2000; amended July 12, 2001 (SR-ISE-2001-04); amended May 1, 2002 (SR-ISE-2002-01); amended May 23, 2002 (SR-ISE-2002-07); amended April 22, 2004 (SR-ISE-2003-26); amended July 8, 2005 (SR-ISE-2005-21).]

### **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 organizations whose application to become a Member have been denied, persons who have been barred from becoming associated with a Member, or organizations and persons that have been 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.

[Adopted February 24, 2000; amended May 1, 2002 (SR-ISE-2002-01).]

#### **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. Arbitration

(a) *General.* The 10000 Series of the NASD Manual (“NASD Code of Arbitration”), as the same may be in effect from time to time, shall govern Exchange arbitrations except as may be specified in this Rule 1800. Definitions in the NASD Code of Arbitration shall have the same meaning as that prescribed therein, and procedures contained in the NASD Code of Arbitration shall have the same application as toward Exchange arbitrations.

(b) *Jurisdiction.* Any dispute, claim, or controversy arising out of or in connection with the business of any Member of the Exchange, or arising out of the employment or termination of employment of associated person(s) with any Member may be arbitrated under this Rule 1800 except that (1) a dispute, claim, or controversy alleging employment discrimination (including a sexual harassment claim) in violation of a statute may only be arbitrated if the parties have agreed to arbitrate it after the dispute arose; and (2) any type of dispute, claim, or controversy that is not permitted to be arbitrated under the NASD Code of Arbitration, such as class action claims, shall not be eligible for arbitration under this Rule 1800.

(c) *Predispute Arbitration Agreements.* The requirements of NASD Rule IM-3110(f) shall apply to predispute arbitration agreements between Members and their customers.

(d) *Referrals.* If any matter comes to the attention of an arbitrator during and in connection with the arbitrator’s participation in a proceeding, either from the record of the proceeding or from material or communications related to the proceeding, that the arbitrator has reason to believe may constitute a violation of the Exchange’s Rules or the federal securities laws, the arbitrator may initiate a referral of the matter to the Exchange for disciplinary investigation; provided, however, that any such referral should only be initiated by an arbitrator after the matter before him has been settled or otherwise disposed of, or after an award finally disposing of the matter has been rendered pursuant to Rule 10330 of the NASD Code of Arbitration.

(e) *Payment of Awards.* 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).

(f) *Other Exchange Actions.* The submission of any matter to arbitration under this Chapter shall in no way limit or preclude any right, action or determination by the Exchange which it would otherwise be authorized to adopt, administer or enforce.

[Chapter 18 adopted February 24, 2000; amended November 21, 2001 (SR-ISE-00-17); amended May 1, 2002 (SR-ISE-2002-01).]



## CHAPTER 19

### Intermarket Linkage

#### Rule 1900. Definitions

The following terms shall have the meaning specified in this Rule solely for the purpose of this Chapter 19:

(1) "Aggrieved Party" means a member of a Participant Exchange whose bid or offer was traded-through.

(2) "Block Trade" means a trade on a Participant Exchange that:

(i) involves 500 or more contracts and has a premium value of at least \$150,000;

(ii) is effected at a price outside of the NBBO; and

(iii) involves either:

(A) a cross (where a member of the Participant Exchange represents all or a portion of both sides of the trade), or

(B) any other transaction (*i.e.*, in which such member represents an order of block size on one side of the transaction only) that is not the result of an execution at the current bid or offer on the Participant Exchange.

Contemporaneous transactions at the same price on a Participant Exchange shall be considered a single transaction for the purpose of this definition.

(3) "Complex Trade" means the execution of an order in an option series in conjunction with the execution of one or more related order(s) in different options series in the same underlying security occurring at or near the same time for the purpose of executing a particular investment strategy and for an equivalent number of contracts, provided that the number of contracts of the legs of a spread, straddle, or combination order may differ by a permissible ratio. The permissible ratio for this purpose is any ratio that is equal to or greater than one-to-three (.333) and less than or equal to three-to-one (3.00).

(4) "Crossed Market" means a quotation in which the Exchange disseminates a bid (offer) in a series of an Eligible Option Class at a price that is greater than (is less than) the price of the offer (bid) for the series then being displayed from another Participant Exchange.

(5) "Eligible Market Maker," with respect to an Eligible Option Class, means a market maker that:

(i) is assigned to, and is providing two-sided quotations in, the Eligible Option Class; and

(ii) is in compliance with the requirements of Rule 1904.

(6) "Eligible Option Class" means all option series overlying a security (as that term is defined in Section 3(a)(10) of the Exchange Act) or group of securities, including both put options and call options, which class is traded on the Exchange and at least one other Participant Exchange.

(7) "Firm Customer Quote Size" with respect to a P/A Order means the size of the disseminated quotation of the Participant Exchange receiving the P/A Order.

(8) "Firm Principal Quote Size" means the number of options contracts that a Participant Exchange guarantees it will execute at its disseminated quotation for incoming Principal Orders in an Eligible Option Class. This number shall be 10, however if the Participant Exchange is disseminating a quotation size of less than 10 contracts, this number may equal such quotation size.

(9) "Linkage" means the systems and data communications network that link electronically the Participant Exchanges for the purposes specified in the Plan.

(10) "Linkage Order" means an Immediate or Cancel Order routed through the Linkage as permitted under the Plan. There are three types of Linkage Orders:

(i) "Principal Acting as Agent ("P/A") Order," which is an order for the principal account of a Primary Market Maker (or equivalent entity on another Participant Exchange that is authorized to represent Public Customer orders), reflecting the terms of a related unexecuted Public Customer order for which the Primary Market Maker is acting as agent;

(ii) "Principal Order," which is an order for the principal account of a market maker (or equivalent entity on another Participant Exchange) and is not a P/A Order; and

(iii) "Satisfaction Order," which is an order sent through the Linkage to notify a Participant Exchange of a Trade-Through and to seek satisfaction of the liability arising from that Trade-Through.

(11) "Locked Market" means a quotation in which the Exchange disseminates a bid (offer) in a series of an Eligible Option Class at a price that equals the price of the offer (bid) for the series then being displayed from another Participant Exchange.

(12) "NBBO" means the national best bid and offer in an options series as calculated by a Participant Exchange.

(13) "Non-Firm" means, with respect to quotations, that members of a Participant Exchange are relieved of their obligation to be firm for their quotations pursuant to Rule 11Ac1-1 under the Exchange Act.

(14) "Participant Exchange" means a registered national securities exchange that is a party to the Plan.

(15) "Plan" means the Plan for the Purpose of Creating and Operating an Intermarket Option Linkage, as such plan may be amended from time to time.

(16) "Reference Price" means the limit price attached to a Linkage Order by the sending Participant Exchange. Except with respect to a Satisfaction Order, the Reference Price is equal to the bid disseminated by the receiving Participant Exchange at the time that the Linkage Order is transmitted in the case of a Linkage Order to sell and the offer disseminated by the receiving Participant Exchange at the time that the Linkage Order is transmitted in the case of a Linkage Order to buy. With respect to a Satisfaction Order, the Reference Price is the bid or offer price reflecting order(s) of Public Customers disseminated by the sending Participant Exchange that was traded through, except in the case of a Trade-Through that is a Block Trade, in which case the Reference Price shall be the price of the Block Trade that caused the Trade-Through.

(17) "Trade-Through" means a transaction in an option series at a price that is inferior to the NBBO, but shall not include a transaction that occurs at a price one minimum quoting increment inferior to the NBBO provided a Linkage Order is contemporaneously sent to each Participant Exchange disseminating the NBBO for the full size of the Participant Exchange's bid (offer) that represents the NBBO.

(18) "Third Participating Market Center Trade-Through" means a Trade-Through in a series of an Eligible Option Class that is effected by executing a Linkage Order, and such execution results in a sale (purchase) at a price that is inferior to the best bid (offer) being disseminated by another Participant Exchange.

(19) "Verifiable Number of Customer Contracts" means the number of Public Customer contracts in the book of a Participant Exchange.

[Adopted January 27, 2003 (SR-ISE-2002-19); amended October 19, 2004 (SR-ISE-2004-01); amended September 13, 2005 (SR-ISE-2005-33); amended October 24, 2005 (SR-ISE-2005-42); amended January 19, 2007 (SR-ISE-2006-73).]

### **Rule 1901. Operation of the Linkage**

By subscribing to the Plan, the Exchange has agreed to comply with, and enforce compliance by its Members with, the Plan. In this regard, the following shall apply:

(a) *Pricing.* Members may send P/A Orders and Principal Orders through the Linkage only if such orders are priced at the NBBO.

(b) *Non-firm markets.*

(1) *Transmission of Principal Orders When the Exchange is Disseminating Non-Firm Quotations.* Whenever and so long as the Exchange is disseminating Non-Firm quotations in an Eligible Option Class, no market maker may transmit a Principal Order with respect to such Eligible Option Class through the Linkage.

(2) *Transmission of Linkage Orders to Another Participant Exchange Disseminating Non-Firm Quotations.* A market maker shall not send a Principal Order or P/A Order in an Eligible Option Class to a Participant Exchange whose quotations in such class are Non-Firm.

(c) *P/A Orders.*

(1) *Sending of P/A Orders for Sizes No Larger than the Firm Customer Quote Size.* A Primary Market Maker may send through the Linkage a P/A Order that is equal to or less than the size of the Firm Customer Quote Size for automatic execution if available.

(2) *Sending of P/A Orders Larger than the Firm Customer Quote Size.* If the size of a P/A Order is larger than the Firm Customer Quote Size, a Primary Market Maker may send through the Linkage such P/A Order in one of two ways:

(i) The Primary Market Maker may send a P/A Order representing the entire Public Customer order. If a receiving Participant Exchange's disseminated quotation is equal to or better than the Reference Price when the P/A Order arrives at that market, that exchange will execute the P/A Order at its disseminated quotation for at least the Firm Customer Quote Size (an automatic execution is not required if the P/A Order is larger than the Firm Customer Quote Size). Within 15 seconds of receipt of such order, the receiving Participant Exchange will inform the Primary Market Maker of the amount of the order executed and the amount, if any, that was canceled.

(ii) Alternatively, the Primary Market Maker may send an initial P/A Order for the Firm Customer Quote Size pursuant to subparagraph (b)(1) above. If one or more of the Participant Exchanges that executed the P/A Order continues to disseminate the same quotation at the NBBO after reporting the execution of the initial P/A Order, the Primary Market Maker may send an additional P/A Order to such Participant Exchanges. If sent, such additional P/A Order must be for at least the lesser of:

- the size of the disseminated quotation;
- 100 contracts; or

- the entire remainder of the Public Customer order.

If the sending Participant Exchange initially sent P/A Orders to more than one Participant Exchange for up to the Firm Customer Quote Size, the sending Participant Exchange may send additional P/A Orders to the same Participant Exchanges as long as such orders are, in the aggregate, for at least the lesser of 100 contracts or the entire remainder of the Customer Order; provided that the sending Participant Exchange may limit the size of any single additional P/A Order to the size of the Participant Exchange's currently-disseminated quotation.

In any situation where a receiving Participant Exchange does not execute a P/A Order in full, such exchange is required to move its quotation to a price inferior to the Reference Price of the P/A Order.

(d) *Principal Orders.*

(1) *Sending of an Initial Principal Order.* An Eligible Market Maker may send a Principal Order through the Linkage at a price equal to the NBBO. Subject to the next paragraph, if the Principal Order is not larger than the Firm Principal Quote Size, the receiving Participant Exchange will execute the order in its automatic execution system, if available, if its disseminated quotation is equal to or better than the price specified in the Principal Order when that order arrives at the receiving Participant Exchange. If the Principal Order is larger than the Firm Principal Quote Size, the receiving Participant Exchange will (a) execute the Principal Order at its disseminated quotation for at least the Firm Principal Quote Size and (b) within 15 seconds of receipt of such order, reply to the sending Participant Exchange, informing such Participant Exchange of the amount of the order that was executed and the amount, if any, canceled. If the receiving Participant Exchange does not execute the Principal Order in full, it will move its quote to a price inferior to the Reference Price of the Principal Order.

(2) *Receipt of Multiple Principal Orders.* Once the Exchange provides an automatic execution of a Principal Order in a series of an Eligible Option Class (the "initial execution"), the Exchange may reject any Principal Order(s) in the same Eligible Option Class sent by the same Participant Exchange for 15 seconds after the initial execution unless: (a) there is a change of price in the Exchange's disseminated offer (bid) in the series of the Eligible Option Class in which there was the initial execution; and (b) such price continues to be the NBBO. After this 15 second period, and until the sooner of (y) one minute after the initial execution or (z) a change in the Exchange's disseminated bid (offer), the Exchange is not obligated to provide an automatic execution for any Principal Orders in the same Eligible Option Class received from the Participant Exchange that sent the order resulting in the initial execution, and thus may treat any such Principal Orders as being greater than the Firm Principal Quote Size.

(e) *Responses to Linkage Orders.*

(1) *Failure to Receive a Timely Response.* A Member who does not

receive a response to a P Order or a P/A Order within 20 seconds of sending the order may reject any response received thereafter purporting to report an execution of all or part of that order. The Member so rejecting the response shall inform the Exchange Participant sending that response of the rejection within 15 seconds of receipt of the response.

(2) *Failure to Send a Timely Response.* If a Member responds to a P Order or P/A Order more than 20 seconds after receipt of that order, and the Participant Exchange to whom the Member responded cancels such response, the Member shall cancel any trade resulting from such order and shall report the cancellation to OPRA.

(f) *Receipt of Linkage Orders.* The Exchange will provide for the execution of P/A Orders and Principal Orders if its disseminated quotation is (i) equal to or better than the Reference Price, and (ii) equal to the then-current NBBO. Subject to paragraph (c) above, if the size of a P/A Order or Principal Order is not larger than the Firm Customer Quote Size or Firm Principal Quote Size, respectively, the Exchange will provide for the execution of the entire order, and shall execute such order in its automatic execution system if that system is available. If the size of a P/A Order or Principal Order is larger than the Firm Customer Quote Size or Firm Principal Quote Size, respectively, the Primary Market Maker must address the order within 15 seconds to provide an execution for at least the Firm Customer Quote Size or Firm Principal Quote Size, respectively. If the order is not executed in full, the Exchange will move its disseminated quotation to a price inferior to the Reference Price.

(g) *Notice and Mitigation of Damages; Compensation Limits.* Other than with respect to Trade-Throughs, a Member who believes that a member of another Participant Exchange or such Participant Exchange's employee took an action or failed to take an action prohibited or required by the Plan, or by such other Participant Exchange's rules adopted pursuant to the Plan, may take steps to establish and mitigate any loss the Member might incur as a result of the action or inaction and shall give prompt notice of any such steps. No such Member shall be entitled to compensation for any such action or inaction in excess of the amount to which the Member would have been entitled had such Member taken such steps promptly after the Member reasonably should have known (or did know, if earlier) that the action had occurred or had failed to occur. If the close of trading on the Exchange occurred before such prompt action could have been taken, then the time for such prompt action shall be deemed to be the opening of trading in the affected option series on the Exchange on the next day on which that option series trades on the Exchange.

[Adopted January 27, 2003 (SR-ISE-2002-19); amended June 17, 2004 (SR-ISE-2004-06); amended October 24, 2005 (SR-ISE-2005-42).]

## **Rule 1902. Order Protection**

(a) *Avoidance and Satisfaction of Trade-Throughs.*

(1) *General Provisions.* Absent reasonable justification and during

normal market conditions, Members should not effect Trade-Throughs. Except as provided in paragraph (b) below, if a Member effects a Trade-Through with respect to the bid or offer of a Participant Exchange in an Eligible Option Class and the Exchange receives a Satisfaction Order from an Aggrieved Party, either:

(i) the Member who initiated the Trade-Through shall satisfy, or cause to be satisfied, the Aggrieved Party by filling the Satisfaction Order in accordance with subparagraph (a)(2) below; or

(ii) if the Member elects not to do so (and, in the case of Third Participating Market Center Trade-Through, the Member obtains the agreement of the contra party that received the Linkage Order that caused the Trade-Through), then the price of the transaction that constituted the Trade-Through shall be corrected to a price at which a Trade-Through would not have occurred. If the price of the transaction is corrected, the Member correcting the price shall report the corrected price to OPRA, notify the Aggrieved Party of the correction and cancel the Satisfaction Order.

(2) *Price and Size.* The price and size at which a Satisfaction Order shall be filled is as follows:

(i) *Price.* A Satisfaction Order shall be filled at the Reference Price. However, if the Reference Price is the price of an apparent Block Trade that caused the Trade-Through, and such trade was not, in fact, a Block Trade, then the Member may cancel the Satisfaction Order. In that case, the Member shall inform the Aggrieved Party within three minutes of receipt of the Satisfaction Order of the reason for the cancellation. Within three minutes of receipt of such cancellation, the Aggrieved Party may resend the Satisfaction Order with a Reference Price of the bid or offer that was traded through.

(ii) *Size.* An Aggrieved Party may send a Satisfaction Order up to the lesser of the size of the Verifiable Number of Customer Contracts that were included in the disseminated bid or offer that was traded through and the size of the transaction that caused the Trade-Through. Subject to subparagraph (2)(i) above and paragraph (b) below, a Member shall fill in full all Satisfaction Orders it receives following a Trade-Through, subject to the following limitations:

(A) If the transaction that caused the Trade-Through was for a size larger than the Firm Customer Quote Size with respect to any of the Participant Exchange(s) traded through, the total number of contracts to be filled, with respect to all Satisfaction Orders received in connection with any one transaction that caused a Trade-Through, shall not exceed the size of the transaction. In that case, the Member shall fill the Satisfaction Orders pro rata based on the Verifiable Number of Customer Contracts traded through on

each Participant Exchange, and shall cancel the remainder of such Satisfaction Order(s); and

(B) Notwithstanding paragraph (A) above, for a pilot period beginning on February 1, 2005 and ending on January 31, 2006, if the transaction that caused the Trade-Through occurred in the period between five minutes prior to the regularly-scheduled close of trading in the principal market in which the underlying security is traded and the close of trading in the Options Class, the maximum number of contracts to be satisfied with respect to any Satisfaction Order from any one Participant Exchange is 50 contracts.

(3) *Change in Status of Underlying Customer Order.* During the time period that a Satisfaction Order is pending at another Participant Exchange, a Member shall cancel such Satisfaction Order as soon as practical if (1) the order(s) for the customer contracts underlying the Satisfaction Order are filled; or (2) the customer order(s) to buy (sell) the contracts underlying the Satisfaction Order are canceled (either being a "change in status of the underlying customer order(s)"). Notwithstanding this obligation to cancel the Satisfaction Order, within 30 seconds of receipt of notification that a Participant Exchange has filled a Satisfaction Order, the Participant that sent the Satisfaction Order may reject such fill if there has been a change in status of the underlying customer order(s), provided that the status change of the customer order occurred prior to the receipt of the Satisfaction Order fill report. However, if the underlying customer order(s) has been executed against the sender of the Satisfaction Order, the Satisfaction Order fill report may not be rejected.

(4) *Protection of Customers.* Whenever subparagraph (a)(1) applies, if Public Customer orders (or P/A Orders representing Public Customer orders) constituted either or both sides of the transaction involved in the Trade-Through, each such Public Customer order (or P/A Order) shall receive:

(i) the price that caused the Trade-Through; or

(ii) the price at which the bid or offer traded through was satisfied, if it was satisfied pursuant to subparagraph (a)(1)(i), or the adjusted price, if there was an adjustment, pursuant to subparagraph (a)(1)(ii),

whichever price is most beneficial to the Public Customer order. Resulting differences in prices shall be the responsibility of the Member who initiated the Trade-Through.

(b) *Exceptions to Trade-Through Liability.* The provisions of paragraph (a) pertaining to the satisfaction of Trade-Throughs shall not apply under the following circumstances:



(1) the Member who initiated the Trade-Through made every reasonable effort to avoid the Trade-Through, but was unable to do so because of a systems/equipment failure or malfunction;

(2) the Member trades through the market of a Participant Exchange to which such Member had sent a P/A Order or Principal Order, and within 20 seconds of sending such order the receiving Participant Exchange had neither executed the order in full nor adjusted the quotation traded through to a price inferior to the Reference Price of the P/A Order or Principal Order;

(3) the bid or offer traded through was being disseminated from a Participant Exchange whose quotes were Non-Firm with respect to such Eligible Option Class;

(4) the Trade-Through was other than a Third Participating Market Center Trade-Through and occurred during a period when, with respect to the Eligible Option Class, the Exchange's quotes were Non-Firm; provided, however, that, unless one of the other conditions of this paragraph (b) applies, during any such period: (i) Members shall make every reasonable effort to avoid trading through the firm quotes of another Participant Exchange; and (ii) it shall not be considered an exception to paragraph (a) if a Member regularly trades through the firm quotes of another Participant Exchange during such period;

(5) the bid or offer traded through was being disseminated by a Participant Exchange during a trading rotation in the Eligible Option Class;

(6) the transaction that caused the Trade-Through occurred during a trading rotation;

(7) the transaction that caused the Trade-Through was the execution of a Complex Trade;

(8) in the case of a Trade-Through other than a Third Participating Market Center Trade-Through, a Satisfaction Order with respect to the Trade-Through was not received by the Exchange from the Aggrieved Party promptly following the Trade-Through and, in any event, (i) except in the final five minutes of trading, within three minutes from the time the report of the transaction(s) that constituted the Trade-Through was disseminated over OPRA, and (ii) in the final five minutes of trading, within one minute from the time the report of the transaction(s) that constituted the Trade-Through was disseminated over OPRA; or

(9) in the case of a Third Participating Market Center Trade-Through, a Satisfaction Order with respect to the Trade-Through was not received by the Exchange promptly following the Trade-Through. In applying this provision, the Aggrieved Party must send the Exchange a Satisfaction Order

within three minutes from the time the report of the transaction that constituted the Trade-Through was disseminated over OPRA. To avoid liability for the Trade-Through, the Member receiving such Satisfaction Order must cancel the Satisfaction Order and inform the Aggrieved Party of the identity of the Participant Exchange that initiated the Trade-Through within three minutes of the receipt of such Satisfaction Order (within one minute in the final five minutes of trading). The Aggrieved Party then must send the Participant Exchange that initiated the Trade-Through a Satisfaction Order within three minutes of receipt of the cancellation of the initial Satisfaction Order (within one minute in the final five minutes of trading).

*(c) Responsibilities and Rights Following Receipt of Satisfaction Orders.*

(1) When a Member receives a Satisfaction Order, that Member shall respond as promptly as practicable pursuant to Exchange procedures by either:

(i) specifying that one of the exceptions to Trade-Through liability specified in paragraph (b) above is applicable and identifying that particular exception; or

(ii) taking the appropriate corrective action pursuant to paragraph (a) above.

(2) If the Member who initiated the Trade-Through fails to respond to a Satisfaction Order or otherwise fails to take the corrective action required under paragraph (a) within three minutes of receiving notice of a Satisfaction Order, and the Exchange determines that:

(i) there was a Trade-Through; and

(ii) none of the exceptions to Trade-Through liability specified in paragraph (b) above were applicable;

then, subject to the next paragraph, the Member who initiated the Trade-Through shall be liable to the Aggrieved Party for the amount of the actual loss resulting from non-compliance with paragraph (a) and caused by the Trade-Through.

If either (a) the Aggrieved Party does not establish the actual loss within 30 seconds from the time the Aggrieved Party received the response to its Satisfaction Order (or, in the event that it did not receive a response, within four minutes from the time the Aggrieved Party sent the Satisfaction Order) or (b) the Aggrieved Party does not notify the Exchange Participant that initiated the Trade-Through of the amount of such loss within one minute of establishing the loss, then the liability shall be the lesser of the actual loss or the loss caused by the Trade-Through that the Aggrieved Party would have suffered had that party purchased or sold the option series subject to the Trade-Through at the "mitigation price."

The "mitigation price" is the highest reported bid (in the case where an offer was traded through) or the lowest reported offer (in the case where a bid was traded through), in the series in question 30 seconds from the time the Aggrieved Party received the response to its Satisfaction Order (or, in the event that it did not receive a response, four minutes from the time the Aggrieved Party sent the Satisfaction Order). If the Participant Exchange receives a Satisfaction Order within the final four minutes of trading (on any day except the last day of trading prior to the expiration of the series which is the subject of the Trade-Through), then the mitigation price shall be the price established at the opening of trading in that series on the Aggrieved Party's Participant Exchange on the next trading day. However, if the price of the opening transaction is below the opening bid or above the opening offer as established during the opening rotation, then the mitigation price shall be the opening bid (in the case where an offer was traded through) or opening offer (in the case where a bid was traded through). If the Trade-Through involves a series that expires on the day following the day of the Trade-Through and the Satisfaction Order is received within the four minutes of trading, the "mitigation price" shall be the final bid (in the case where an offer was traded through) or offer (in the case where a bid was traded through) on the day of the trade that resulted in the Trade-Through.

(3) A Member that is an Aggrieved Party under the rules of another Participant Exchange governing Trade-Through liability must take steps to establish and mitigate any loss such Member might incur as a result of the Trade-Through of the Member's bid or offer. In addition, the Member shall give prompt notice to the other Participant Exchange of any such action in accordance with subparagraph (c)(2) above.

(d) *Limitations on Trade-Throughs.* Members may not engage in a pattern or practice of trading through better prices available on other exchanges, whether or not the exchange or exchanges whose quotations are traded through are Participant Exchanges, unless one or more of the provisions of paragraph (b) above are applicable. In applying this provision:

(1) The Exchange will consider there to have been a Trade-Through if a Member executes a trade at a price inferior to the NBBO even if the Exchange does not receive a Satisfaction Order from an Aggrieved Party pursuant to subparagraph (a)(1);

(2) The Exchange will not consider there to have been a Trade-Through if a Member executes a Block Trade at a price inferior to the NBBO if such Member satisfied all Aggrieved Parties pursuant to subparagraph (a)(2) following the execution of the Block Trade; and

(3) The Exchange will not consider there to have been a Trade-Through if a Member executes a trade at a price inferior to the quotation being disseminated by an exchange that is not a Participant Exchange if the Member made a good faith effort to trade against the superior quotation of the non-

Participant Exchange prior to trading through that quotation. A "good faith effort" to reach a non-Participant Exchange's quotation requires that a Member at least had sent an order that day to the non-Participant Exchange in the class of options in which there is a Trade-Through, at a time at which such non-Participant Exchange was not relieved of its obligation to be firm for its quotations pursuant to Rule 11Ac1-1 under the Exchange Act, and such non-Participant Exchange neither executed that order nor moved its quotation to a price inferior to the price of the Member's order within 20 seconds of receipt of that order.

[Adopted January 27, 2003 (SR-ISE-2002-19); amended June 15, 2004 (SR-ISE-2004-14); amended July 2, 2004 (SR-ISE-2004-07); amended January 31, 2005 (SR-ISE-2005-08).]

**Rule 1903. Locked and Crossed Markets**

(a) *Eligible Market Maker Locking or Crossing a Market.* An Eligible Market Maker that creates a Locked Market or a Crossed Market shall unlock (uncross) that market or shall direct a Principal Order through the Linkage to trade against the bid or offer that the Eligible Market Maker locked (crossed).

(b) *Members Other than an Eligible Market Maker Locking or Crossing a Market.* A Member other than an Eligible Market Maker that creates a Locked Market or a Crossed Market shall unlock (uncross) the market.

(c) *Exception.* The provisions of paragraphs (a) and (b) of this rule do not apply to situations where a Member enters an order on the Exchange that locks a market and contemporaneously sends through the Linkage a P/A Order or Principal Order for the full size of the bid or offer that was locked.

[Adopted January 27, 2003 (SR-ISE-2002-19); amended September 22, 2005 (SR-ISE-2005-33).]

**Rule 1904. Limitation on Principal Order Access**

A market maker shall not be permitted to send Principal Orders in an Eligible Option Class through the Linkage for a given calendar quarter if the market maker effected less than 80 percent of its volume in that Eligible Option Class on the Exchange in the previous calendar quarter (that is, the market maker effected 20 percent or more of its volume by sending Principal Orders through the Linkage). This restriction shall apply only if the market maker had total contract volume in the Eligible Option Class of at least 1000 contracts in the previous calendar quarter. This "80/20" is represented as follows:

$$\frac{X}{X+Y}$$

"X" equals the total contract volume the market maker effects in an Eligible Option Class against orders of Public Customers on the Exchange during a calendar quarter (a) including contract volume effected by executing P/A Orders sent to the Exchange through the linkage, but (b) excluding contract volume effected by sending P/A Orders through the Linkage for execution on another Participant Exchange. "Y" equals the total contract volume the market maker effects in such Eligible Option Class by sending Principal Orders through the Linkage during that calendar quarter.

[Adopted January 27, 2003 (SR-ISE-2002-19); amended August 26, 2005 (SR-ISE-2005-23).]

#### **1905. Limitation of Liability**

The Clearing Corporation shall have no liability to Members with respect to the use, non-use or inability to use the Linkage, including without limitation the content of orders, trades, or other business facilitated through the Linkage, the truth or accuracy of the content of messages or other information transmitted through the Linkage, or otherwise.

[Adopted September 24, 2003 (SR-ISE-2003-15).]

## **CHAPTER 20**

### **Index Rules**

#### **Rule 2000. Application of Index Rules**

The Rules in this Chapter are applicable only to index options (options on indices of securities as defined below). The Rules in Chapters 1 through 19 are also applicable to the options provided for in this Chapter, unless such Rules are specifically replaced or are supplemented by Rules in this Chapter. Where the Rules in this Chapter indicate that particular indices or requirements with respect to particular indices will be "Specified," the Exchange shall file a proposed rule change with the Commission to specify such indices or requirements.

[Adopted August 25, 2003 (SR-ISE-2003-05).]

#### **Rule 2001. Definitions.**

(a) The term "aggregate exercise price" means the exercise price of the options contract times the index multiplier.

(b) The term "American-style index option" means an option on an industry or market index that can be exercised on any business day prior to expiration.

(c) The term "A.M.-settled index option" means an index options contract for which the current index value at expiration shall be determined as provided in Rule 2009(a)(5).

(d) 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 current index value times the index multiplier.

(e) The term "current index value" with respect to a particular index options contract means the level of the underlying index reported by the reporting authority for the index, or any multiple or fraction of such reported level specified by the Exchange. The current index value with respect to a reduced-value long term options contract is one-tenth of the current index value of the related index option. The "closing index value" shall be the last index value reported on a business day.

(f) The term "exercise price" means the specified price per unit at which the current index value may be purchased or sold upon the exercise of the option.

(g) The term "European-style index option" means an option on an industry or market index that can be exercised only on the last business day prior to the day it expires.

(h) The term "index multiplier" means the amount specified in the contract by which the current index value is to be multiplied to arrive at the value required to be delivered to the holder of a call or by the holder of a put upon valid exercise of the contract.

(i) The term "industry index" and "narrow-based index" mean an index designed to be representative of a particular industry or a group of related industries.

(j) The term "market index" and "broad-based index" mean an index designed to be representative of a stock market as a whole or of a range of companies in unrelated industries.

(k) 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 current index value times the index multiplier.

(l) The term "Quarterly Options Series" means, for the purposes of Chapter 20, a series in an index options class that is approved for listing and trading on the Exchange in which the series is opened for trading on any business day and that expires at the close of business on the last business day of a calendar quarter.

(m) The term "reporting authority" with respect to a particular index means the institution or reporting service designated by the Exchange as the official source for (1) calculating the level of the index from the reported prices of the underlying securities that are the basis of the index and (2) reporting such level. The reporting authority for each index approved for options trading on the Exchange shall be Specified (as provided in Rule 2000) in the Supplementary Material to this Rule 2001.

(n) The term "Short Term Option Series" means, for the purposes of Chapter 20, a series in an index option class that is approved for listing and trading on the Exchange in which the series is opened for trading on any Friday that is a business day and that expires on the next Friday that is a business day. If a Friday is not a business day, the series may be opened (or shall expire) on the first business day immediately prior to that Friday.

(o) The term "underlying security" or "underlying securities" with respect to an index options contract means any of the securities that are the basis for the calculation of the index.

**Supplementary Material to Rule 2001**

.01 The reporting authorities designated by the Exchange in respect of each index underlying an index options contract traded on the Exchange are as provided in the chart below.

Underlying Index	Reporting Authority
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S&P SmallCap 600 Index	Standard & Poor's
Morgan Stanley Technology Index	American Stock Exchange
S&P MidCap 400 Index	Standard & Poor's
S&P 1000 Index	Standard & Poor's
Nasdaq 100 Index	The Nasdaq Stock Market
Russell 3000 Index	Frank Russell Company
Russell 3000 Value Index	Frank Russell Company
Russell 3000 Growth Index	Frank Russell Company
Russell 2500 Index	Frank Russell Company
Russell 2500 Value Index	Frank Russell Company
Russell 2500 Growth Index	Frank Russell Company
Russell 2000 Index	Frank Russell Company
Russell 2000 Value Index	Frank Russell Company
Russell 2000 Growth Index	Frank Russell Company
Russell 1000 Index	Frank Russell Company
Russell 1000 Value Index	Frank Russell Company
Russell 1000 Growth Index	Frank Russell Company
Russell Top 200 Index	Frank Russell Company
Russell Top 200 Value Index	Frank Russell Company
Russell Top 200 Growth Index	Frank Russell Company
Russell MidCap Index	Frank Russell Company
Russell MidCap Value Index	Frank Russell Company
Russell MidCap Growth Index	Frank Russell Company



Russell Small Cap Completeness Index	Frank Russell Company
Russell Small Cap Completeness Value Index	Frank Russell Company
Russell Small Cap Completeness Growth Index	Frank Russell Company
NYSE U.S. 100 Index	New York Stock Exchange and Dow Jones & Company
NYSE International 100 Index	New York Stock Exchange and Dow Jones & Company
NYSE World Leaders Index	New York Stock Exchange and Dow Jones & Company
NYSE TMT Index	New York Stock Exchange and Dow Jones & Company
ISE-CCM Homeland Security Index	International Securities Exchange, Inc.
ISE Oil & Gas Services Index	International Securities Exchange, Inc.
ISE Semiconductors Index	International Securities Exchange, Inc.
ISE Gold Index	International Securities Exchange, Inc.
ISE Homebuilders Index	International Securities Exchange, Inc.
ISE 250 Index	International Securities Exchange, Inc. and Standard & Poor's
ISE 100 Index	International Securities Exchange, Inc. and Standard & Poor's
ISE 50 Index	International Securities Exchange, Inc. and Standard & Poor's
ISE U.S. Regional Banks Index	International Securities Exchange, Inc.
ISE SIndex	International Securities Exchange, Inc.
ISE Bio-Pharmaceuticals Index	International Securities Exchange, Inc.
ISE Water Index	International Securities Exchange, Inc.
ISE-CCM Alternative Energy Index	International Securities Exchange, Inc.
ISE-CCM Nanotechnology Index	International Securities Exchange, Inc.
FTSE 100 Index	FTSE International Limited
FTSE 250 Index	FTSE International Limited

ISE-Revere Natural Gas Index	International Securities Exchange
KBW Bank Index	Keefe, Bruyette & Woods, Inc.
ISE Integrated Oil and Gas Index	International Securities Exchange
ISE-Revere Wal-Mart Supplier Index	International Securities Exchange

[Adopted August 25, 2003 (SR-ISE-2003-05); Amended October 1, 2003 (SR-ISE-2003-18); amended March 18, 2004 (SR-ISE-2003-36); amended May 13, 2004 (SR-ISE-2004-08); amended December 27, 2004 (SR-ISE-2004-09); amended February 1, 2005 (SR-ISE-2005-01); amended April 27, 2005 (SR-ISE-2005-09); amended May 11, 2005 (SR-ISE-2004-27); amended June 10, 2005 (Form 19b-4(e)); amended June 23, 2005 (SR-ISE-2004-28); amended July 12, 2005 (SR-ISE-2005-17); amended July 18, 2005 (Form 19b-4(e)); amended January 10, 2006 (Form 19b-4(e)); amended March 14, 2006 (SR-ISE-2005-25); amended July 10, 2006 (SR-ISE-2006-24); amended October 12, 2006 ) Form 19b-4(e)); amended January 22, 2007 (Form 19b-4(e)); amended February 7, 2007 (Form 19b-4(e)).]

### **Rule 2002. Designation of an Index**

(a) The component securities of an index underlying an index option contract need not meet the requirements of Rule 502. Except as set forth in subparagraph (b) below, the listing of a class of index options on an industry index requires the filing of a proposed rule change to be approved by the SEC under Section 19(b) of the Exchange Act.

(b) The Exchange may trade options on a narrow-based index pursuant to Rule 19b-4(e) of the Securities Exchange Act of 1934, if each of the following conditions is satisfied:

- (1) The options are designated as A.M.-settled index options;
- (2) The index is capitalization-weighted, price-weighted, equal dollar-weighted, or modified capitalization-weighted, and consists of 10 or more component securities;
- (3) Each component security has a market capitalization of at least \$75 million, except that for each of the lowest weighted component securities in the index that in the aggregate account for no more than 10 percent of the weight of the index, the market capitalization is at least \$50 million;
- (4) Trading volume of each component security has been at least one million shares for each of the last six months, except that for each of the lowest weighted component securities in the index that in the aggregate account

for no more than 10 percent of the weight of the index, trading volume has been at least 500,000 shares for each of the last six months;

(5) In a capitalization-weighted index or a modified capitalization-weighted index, the lesser of the five highest weighted component securities in the index or the highest weighted component securities in the index that in the aggregate represent at least 30 percent of the total number of component securities in the index each have had an average monthly trading volume of at least 2,000,000 shares over the past six months;

(6) No single component security represents more than 30 percent of the weight of the index, and the five highest weighted component securities in the index do not in the aggregate account for more than 50 percent (65 percent for an index consisting of fewer than 25 component securities) of the weight of the index;

(7) Component securities that account for at least 90 percent of the weight of the index and at least 80 percent of the total number of component securities in the index satisfy the requirements of Rule 502 applicable to individual underlying securities;

(8) All component securities are "reported securities" as defined in Rule 11Aa3-1 under the Exchange Act;

(9) Non-U.S. component securities (stocks or ADRs) that are not subject to comprehensive surveillance agreements do not in the aggregate represent more than 20 percent of the weight of the index;

(10) The current underlying index value will be reported at least once every 15 seconds during the time the index options are traded on the Exchange;

(11) An equal dollar-weighted index will be rebalance at least once every calendar quarter; and

(12) If an underlying index is maintained by a broker-dealer, the index is calculated by a third party who is not a broker-dealer, and the broker-dealer has erected a "Chinese Wall" around its personnel who have access to information concerning changes in and adjustments to the index.

(c) The following maintenance listing standards shall apply to each class of index options originally listed pursuant to paragraph (b) above:

(1) The requirements stated in subparagraphs (b)(1), (3), (6), (7), (8), (9), (10), (11) and (12) must continue to be satisfied, provided that the requirements stated in subparagraph (d)(6) must be satisfied only as of the first day of January and July in each year;

(2) The total number of component securities in the index may not increase or decrease by more than 33 1/3 percent from the number of component securities in the index at the time of its initial listing, and in no event may be less than nine component securities;

(3) Trading volume of each component security in the index must be at least 500,000 shares for each of the last six months, except that for each of the lowest weighted component securities in the index that in the aggregate account for no more than 10 percent of the weight of the index, trading volume must be at least 400,000 shares for each of the last six months; and

(4) In a capitalization-weighted index or a modified capitalization-weighted index, the lesser of the five highest weighted component securities in the index or the highest weighted component securities in the index that in the aggregate represent at least 30 percent of the total number of stocks in the index each have had an average monthly trading volume of at least 1,000,000 shares over the past six months. In the event a class of index options listed on the Exchange fails to satisfy the maintenance listing standards set forth herein, the Exchange shall not open for trading any additional series of options of that class unless such failure is determined by the Exchange not to be significant and the SEC concurs in that determination, or unless the continued listing of that class of index options has been approved by the SEC under Section 19(b)(2) of the Exchange Act.

(d) The Exchange may trade options on a broad-based index pursuant to Rule 19b-4(e) of the Securities Exchange Act of 1934, if each of the following conditions is satisfied:

- (1) The index is broad-based, as defined in Rule 2001(j);
- (2) Options on the index are designated as A.M.-settled;
- (3) The index is capitalization-weighted, modified capitalization-weighted, price-weighted, or equal dollar-weighted;
- (4) The index consists of 50 or more component securities;
- (5) Component securities that account for at least ninety-five percent (95%) of the weight of the index have a market capitalization of at least \$75 million, except that component securities that account for at least sixty-five percent (65%) of the weight of the index have a market capitalization of at least \$100 million;
- (6) Component securities that account for at least eighty percent (80%) of the weight of the index satisfy the requirements of Rule 502 applicable to individual underlying securities;
- (7) Each component security that accounts for at least one percent (1%) of the weight of the index has an average daily trading volume of at least 90,000 shares during the last six month period;

(8) No single component security accounts for more than ten percent (10%) of the weight of the index, and the five highest weighted component securities in the index do not, in the aggregate, account for more than thirty-three percent (33%) of the weight of the index;

(9) Each component security must be an "NMS stock" as defined in Rule 600 of Regulation NMS under the Exchange Act;

(10) Non-U.S. component securities (stocks or ADRs) that are not subject to comprehensive surveillance agreements do not, in the aggregate, represent more than twenty percent (20%) of the weight of the index;

(11) The current index value is widely disseminated at least once every fifteen (15) seconds by OPRA, CTA/CQ, NIDS or one or more major market data vendors during the time options on the index are traded on the Exchange;

(12) The Exchange reasonably believes it has adequate system capacity to support the trading of options on the index, based on a calculation of the Exchange's current ISCA allocation and the number of new messages per second expected to be generated by options on such index;

(13) An equal dollar-weighted index is rebalanced at least once every calendar quarter;

(14) If an index is maintained by a broker-dealer, the index is calculated by a third-party who is not a broker-dealer, and the broker-dealer has erected an informational barrier around its personnel who have access to information concerning changes in, and adjustments to, the index;

(15) The Exchange has written surveillance procedures in place with respect to surveillance of trading of options on the index.

(e) The following maintenance listing standards shall apply to each class of index options originally listed pursuant to paragraph (d) above:

(1) The requirements set forth in subparagraphs (d)(1) – (d)(3) and (d)(9) – (d)(15) must continue to be satisfied. The requirements set forth in subparagraphs (d)(5) – (d)(8) must be satisfied only as of the first day of January and July in each year;

(2) The total number of component securities in the index may not increase or decrease by more than ten percent (10%) from the number of component securities in the index at the time of its initial listing.

In the event a class of index options listed on the Exchange fails to satisfy the maintenance listing standards set forth herein, the Exchange shall not open for trading any additional series of options of that class unless the continued listing of that class of index options has been approved by the SEC under Section 19(b)(2) of the Exchange Act.

[Adopted August 25, 2003 (SR-ISE-2003-05); amended February 25, 2005 (SR-ISE-2005-10); amended February 25, 2005 (SR-ISE-2005-11); amended October 7, 2005 (SR-ISE-2005-27).]

**Rule 2003. Dissemination of Information**

(a) The Exchange shall disseminate, or shall assure that the current index value is disseminated, after the close of business and from time-to-time on days on which transactions in index options are made on the Exchange.

(b) The Exchange shall maintain, in files available to the public, information identifying the stocks whose prices are the basis for calculation of the index and the method used to determine the current index value.

[Adopted August 25, 2003 (SR-ISE-2003-05).]

**Rule 2004. Position Limits for Broad-Based Index Options**

(a) Rule 412 generally shall govern position limits for broad-based index options, as modified by this Rule 2004. There may be no position limit for certain Specified (as provided in Rule 2000) broad-based index options contracts. Except as otherwise indicated below, the position limit for a broad-based index option shall be 25,000 contracts on the same side of the market. All other broad-based index options contracts shall be subject to a contract limitation fixed by the Exchange, which shall not be larger than the limits provided in the chart below.

<b>Broad-Based Underlying Index</b>	<b>Standard Limit (on the same side of the market)</b>	<b>Restrictions</b>
S&P SmallCap 600 Index	100,000 contracts	No more than 60,000 near-term
S&P MidCap 400 Index	45,000 contracts	No more than 25,000 near-term
Reduced Value S&P 1000 Index	50,000 contracts	No more than 30,000 near-term
Micro S&P 1000 Index	500,000 contracts	No more than 300,000 near-term
Nasdaq 100 Index	None	None

Mini Nasdaq 100 Index	750,000 contracts	None
Russell 3000 Index	50,000 contracts	No more than 30,000 near-term
Mini Russell 3000 Index	500,000 contracts	No more than 300,000 near-term
Russell 3000 Value Index	50,000 contracts	No more than 30,000 near-term
Mini Russell 3000 Value Index	500,000 contracts	No more than 300,000 near-term
Russell 3000 Growth Index	50,000 contracts	No more than 30,000 near-term
Mini Russell 3000 Growth Index	500,000 contracts	No more than 300,000 near-term
Russell 2500 Index	50,000 contracts	No more than 30,000 near-term
Mini Russell 2500 Index	500,000 contracts	No more than 300,000 near-term
Russell 2500 Value Index	50,000 contracts	No more than 30,000 near-term
Mini Russell 2500 Value Index	500,000 contracts	No more than 300,000 near-term
Russell 2500 Growth Index	50,000 contracts	No more than 30,000 near-term
Mini Russell 2500 Growth Index	500,000 contracts	No more than 300,000 near-term
Russell 2000 Index	50,000 contracts	No more than 30,000 near-term
Mini Russell 2000 Index	500,000 contracts	No more than 300,000 near-term
Russell 2000 Value Index	50,000 contracts	No more than 30,000 near-term

Mini Russell 2000 Value Index	500,000 contracts	No more than 300,000 near-term
Russell 2000 Growth Index	50,000 contracts	No more than 30,000 near-term
Mini Russell 2000 Growth Index	500,000 contracts	No more than 300,000 near-term
Russell 1000 Index	50,000 contracts	No more than 30,000 near-term
Mini Russell 1000 Index	500,000 contracts	No more than 300,000 near-term
Russell 1000 Value Index	50,000 contracts	No more than 30,000 near-term
Mini Russell 1000 Value Index	500,000 contracts	No more than 300,000 near-term
Russell 1000 Growth Index	50,000 contracts	No more than 30,000 near-term
Mini Russell 1000 Growth Index	500,000 contracts	No more than 300,000 near-term
Russell Top 200 Index	50,000 contracts	No more than 30,000 near-term
Mini Russell Top 200 Index	500,000 contracts	No more than 300,000 near-term
Russell Top 200 Value Index	50,000 contracts	No more than 30,000 near-term
Mini Russell Top 200 Value Index	500,000 contracts	No more than 300,000 near-term
Russell Top 200 Growth Index	50,000 contracts	No more than 30,000 near-term
Mini Russell Top 200 Growth Index	500,000 contracts	No more than 300,000 near-term
Russell MidCap Index	50,000 contracts	No more than 30,000 near-term



Mini Russell MidCap Index	500,000 contracts	No more than 300,000 near-term
Russell MidCap Value Index	50,000 contracts	No more than 30,000 near-term
Mini Russell MidCap Value Index	500,000 contracts	No more than 300,000 near-term
Russell MidCap Growth Index	50,000 contracts	No more than 30,000 near-term
Mini Russell MidCap Growth Index	500,000 contracts	No more than 300,000 near-term
Russell Small Cap Completeness Index	50,000 contracts	No more than 30,000 near-term
Mini Russell Small Cap Completeness Index	500,000 contracts	No more than 300,000 near-term
Russell Small Cap Completeness Value Index	50,000 contracts	No more than 30,000 near-term
Mini Russell Small Cap Completeness Value Index	500,000 contracts	No more than 300,000 near-term
Russell Small Cap Completeness Growth Index	50,000 contracts	No more than 30,000 near-term
Mini Russell Small Cap Completeness Growth Index	500,000 contracts	No more than 300,000 near-term
Mini NYSE U.S. 100 Index	50,000 contracts	No more than 30,000 near-term
Micro NYSE U.S. 100 Index	500,000 contracts	No more than 300,000 near-term
Mini NYSE International 100 Index	50,000 contracts	No more than 30,000 near-term
Micro NYSE International 100 Index	500,000 contracts	No more than 300,000 near-term

Mini NYSE World Leaders Index	50,000 contracts	No more than 30,000 near-term
Micro NYSE World Leaders Index	500,000 contracts	No more than 300,000 near-term
ISE 250 Index	50,000 contracts	No more than 30,000 near-term
Mini ISE 250 Index	500,000 contracts	No more than 300,000 near-term
ISE 100 Index	50,000 contracts	No more than 30,000 near-term
Mini ISE 100 Index	500,000 contracts	No more than 300,000 near-term
ISE 50 Index	50,000 contracts	No more than 30,000 near-term
Mini ISE 50 Index	500,000 contracts	No more than 300,000 near-term
FTSE 100 Index	25,000 contracts	No more than 15,000 near-term
Mini FTSE 100 Index	250,000 contracts	No more than 150,000 near-term
Micro FTSE 100 Index	2,500,000 contracts	No more than 1,500,000 near-term
FTSE 250 Index	25,000 contracts	No more than 15,000 near-term
Mini FTSE 250 Index	250,000 contracts	No more than 150,000 near-term
Micro FTSE 250 Index	2,500,000 contracts	No more than 1,500,000 near-term

(b) Index options contracts shall not be aggregated with options contracts on any stocks whose prices are the basis for calculation of the index.

(c) Positions in reduced-value index options shall be aggregated with positions in full-value indices. For such purposes, ten reduced-value contracts shall equal one contract.

(d) Positions in Short Term Option Series and Quarterly Options Series shall be aggregated with positions in options contracts on the same index.

[Adopted August 25, 2003 (SR-ISE-2003-05); amended October 1, 2003 (SR-ISE-2003-18); amended May 13, 2004 (SR-ISE-2004-08); amended December 27, 2004 (SR-ISE-2004-09); amended February 1, 2005 (SR-ISE-2005-01); amended April 27, 2005 (SR-ISE-2005-09); amended May 11, 2005 (SR-ISE-2004-27); amended June 23, 2005 (SR-ISE-2004-28); amended July 12, 2005 (SR-ISE-2005-17); amended October 7, 2005 (SR-ISE-2005-27); amended December 5, 2005 (SR-ISE-2005-45); amended March 14, 2006 (SR-ISE-2005-25); amended July 10, 2006 (SR-ISE-2006-24).]

#### **Rule 2005. Position Limits for Industry Index Options**

(a)(1) Rule 412 generally shall govern position limits for industry index options, as modified by this Rule 2005. Options contracts on an industry index shall, subject to the procedures specified in subparagraph (3) of this rule, be subject to the following position limits:

(i) 18,000 contracts if the Exchange determines, at the time of a review conducted pursuant to subparagraph (2) of this paragraph (a), that any single underlying stock accounted, on average, for thirty percent (30%) or more of the index value during the thirty (30) -day period immediately preceding the review; or

(ii) 24,000 contracts if the Exchange determines, at the time of a review conducted pursuant to subparagraph (2) of this paragraph (a), that any single underlying stock accounted, on average, for twenty percent (20%) or more of the index value or that any five (5) underlying stocks together accounted, on average, for more than fifty percent (50%) of the index value, but that no single stock in the group accounted, on average, for thirty percent (30%) or more of the index value, during the thirty (30)-day period immediately preceding the review; or

(iii) 31,500 contracts if the Exchange determines that the conditions specified above which would require the establishment of a lower limit have not occurred.

(iv) 44,000 contracts total with respect to the KBW Bank Index.

(2) The Exchange shall make the determinations required by subparagraph (1) of this paragraph (a) with respect to options on each industry index at the commencement of trading of such options on the Exchange and thereafter review the determination semi-annually on January 1 and July 1.

(3) If the Exchange determines, at the time of a semi-annual review, that the position limit in effect with respect to options on a particular industry index is lower than the maximum position limit permitted by the criteria set forth in paragraph (1) of this paragraph (a), the Exchange may effect an appropriate position limit increase immediately. If the Exchange determines, at the time of a semi-annual review, that the position limit in effect with respect to options on a particular industry index exceeds the maximum position limit permitted by the criteria set forth in subparagraph (1) of this paragraph (a), the Exchange shall reduce the position limit applicable to such options to a level consistent with such criteria; provided, however, that such a reduction shall not become effective until after the expiration date of the most distantly expiring options series relating to the industry index that is open for trading on the date of the review; and provided further that such a reduction shall not become effective if the Exchange determines, at the next semi-annual review, that the existing position limit applicable to such options is consistent with the criteria set forth in subparagraph (1) of this paragraph (a).

(b) Index options contracts shall not be aggregated with options contracts on any stocks whose prices are the basis for calculation of the index.

(c) Positions in reduced-value index options shall be aggregated with positions in full-value index options. For such purposes, ten (10) reduced-value options shall equal one (1) full-value contract.

(d) Positions in Short Term Option Series and Quarterly Options Series shall be aggregated with positions in options contracts on the same index.

[Adopted August 25, 2003 (SR-ISE-2003-05); amended July 12, 2005 (SR-ISE-2005-17); amended July 10, 2006 (SR-ISE-2006-24); amended February 12, 2007 (SR-ISE-2007-02).]

#### **Rule 2006. Exemptions from Position Limits**

(a) *Broad-based Index Hedge Exemption.* The broad-based index hedge exemption is in addition to the other exemptions available under Exchange Rules, interpretations and policies. The following procedures and criteria must be satisfied to qualify for a broad-based index hedge exemption:

(1) The account in which the exempt options positions are held ("hedge exemption account") must have received prior Exchange approval for the hedge exemption specifying the maximum number of contracts that may be exempt under this Rule. The hedge exemption account must have provided all information required on Exchange-approved forms and must have kept such

information current. Exchange approval may be granted on the basis of verbal representations, in which event the hedge exemption account shall within two business days, or such other time period designated by the Exchange, furnish the Exchange with appropriate forms and documentation substantiating the basis for the exemption. The hedge exemption account may apply from time to time for an increase in the maximum number of contracts exempt from the position limits.

(2) A hedge exemption account that is not carried by a Member must be carried by a member of a self-regulatory organization participating in the Intermarket Surveillance Group.

(3) The hedge exemption account maintains a qualified portfolio, or will effect transactions necessary to obtain a qualified portfolio concurrent with or at or about the same time as the execution of the exempt options positions, of:

(i) a net long or short position in common stocks in at least four industry groups and contains at least twenty (20) stocks, none of which accounts for more than fifteen percent (15%) of the value of the portfolio or in securities readily convertible, and additionally in the case of convertible bonds economically convertible, into common stocks which would comprise a portfolio; or

(ii) a net long or short position in index futures contracts or in options on index futures contracts, or long or short positions in index options or index warrants, for which the underlying index is included in the same margin or cross-margin product group cleared at the Clearing Corporation as the index options class to which the hedge exemption applies.

To remain qualified, a portfolio must at all times meet these standards notwithstanding trading activity.

(4) The exemption applies to positions in broad-based index options dealt in on the Exchange and is applicable to the unhedged value of the qualified portfolio. The unhedged value will be determined as follows:

(i) the values of the net long or short positions of all qualifying products in the portfolio are totaled;

(ii) for positions in excess of the standard limit, the underlying market value (A) of any economically equivalent opposite side of the market calls and puts in broad-based index options, and (B) of any opposite side of the market positions in stock index futures, options on stock index futures, and any economically equivalent opposite side of the market positions, assuming no other hedges for these contracts exist, is subtracted from the qualified portfolio; and

(iii) the market value of the resulting unhedged portfolio is equated to the appropriate number of exempt contracts as follows: the unhedged qualified portfolio is divided by the correspondent closing index value and the quotient is then divided by the index multiplier or 100.

(5) Positions in broad-based index options that are traded on the Exchange are exempt from the standard limits to the extent specified below.

<b>Broad-Based Index Option Type</b>	<b>Broad-Based Index Hedge Exemption (is in addition to standard limit)</b>
Nasdaq 100 Stock Index ( $\frac{1}{10}$ th value) (MNX)	1,500,000 contracts
Other broad-based indexes	75,000

(6) Only the following qualified hedging transactions and positions are eligible for purposes of hedging a qualified portfolio (*i.e.* stocks, futures, options and warrants) pursuant to this Rule:

- (i) Long put(s) used to hedge the holdings of a qualified portfolio;
- (ii) Long call(s) used to hedge a short position in a qualified portfolio;
- (iii) Short call(s) used to hedge the holdings of a qualified portfolio; and
- (iv) Short put(s) used to hedge a short position in a qualified portfolio.

The following strategies may be effected only in conjunction with a qualified stock portfolio for non-P.M. settled, European style index options only:

(v) A short call position accompanied by long put(s), where the short call(s) expires with the long put(s), and the strike price of the short call(s) equals or exceeds the strike price of the long put(s) (a "collar"). Neither side of the collar transaction can be in-the-money at the time the position is established. For purposes of determining compliance with Rule 411 and this Rule 2006, a collar position will be treated as one contract;

(vi) A long put position coupled with a short put position overlying the same broad-based index and having an equivalent

underlying aggregate index value, where the short put(s) expires with the long put(s), and the strike price of the long put(s) exceeds the strike price of the short put(s)(a "debit put spread position"); and

(vii) A short call position accompanied by a debit put spread position, where the short call(s) expires with the puts and the strike price of the short call(s) equals or exceeds the strike price of the long put(s). Neither side of the short call, long put transaction can be in-the-money at the time the position is established. For purposes of determining compliance with Rule 412 and this Rule 2006, the short call and long put positions will be treated as one contract.

(7) The hedge exemption account shall:

(i) liquidate and establish options, stock positions, their equivalent or other qualified portfolio products in an orderly fashion; not initiate or liquidate positions in a manner calculated to cause unreasonable price fluctuations or unwarranted price changes; and not initiate or liquidate a 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) liquidate any options prior to or contemporaneously with a decrease in the hedged value of the qualified portfolio which options would thereby be rendered excessive; and

(iii) promptly notify the Exchange of any material change in the qualified portfolio which materially affects the unhedged value of the qualified portfolio.

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

(9) The hedge exemption account shall promptly provide to the Exchange any information requested concerning the qualified portfolio.

(10) Positions included in a qualified portfolio that serve to secure an index hedge exemption may not also be used to secure any other position limit exemption granted by the Exchange or any other self regulatory organization or futures contract market.

(11) Any Member that maintains a broad-based index options position in such Member's own account or in a customer account, and has reason to believe that such position is in excess of the applicable limit, shall promptly take the action necessary to bring the position into compliance. Failure to abide by this provision shall be deemed to be a violation of Rules 412 and this Rule 2006 by the Member.

(12) Violation of any of the provisions of this Rule, absent reasonable justification or excuse, shall result in withdrawal of the index hedge exemption and may form the basis for subsequent denial of an application for an index hedge exemption hereunder.

(13) Each member (other than Exchange market-makers) that maintains a broad-based index option position on the same side of the market in excess of 100,000 contracts in NDX for its own account or for the account of a customer, shall report information as to whether the positions are hedged and provide documentation as to how such contracts are hedged, in the manner and form required by the Exchange. The Exchange may impose other reporting requirements as well as the limit at which the reporting requirement may be triggered.

(14) Whenever the Exchange determines that additional margin is warranted in light of the risks associated with an under-hedged NDX options position, the Exchange may impose additional margin upon the account maintaining such under-hedged position pursuant to its authority under Rule 1204. The clearing firm carrying the account also will be subject to capital charges under Rule 15c3-1 under the Exchange Act to the extent of any margin deficiency resulting from the higher margin requirements.

(b) *Industry Index Hedge Exemption.* The industry (narrow-based) index hedge exemption is in addition to the other exemptions available under Exchange Rules, interpretations and policies, and may not exceed twice the standard limit established under Rule 2005. Industry index options positions may be exempt from established position limits for each options contract "hedged" by an equivalent dollar amount of the underlying component securities or securities convertible into such components; provided that, in applying such hedge, each options position to be exempted is hedged by a position in at least seventy-five percent (75%) of the number of component securities underlying the index. In addition, the underlying value of the options position may not exceed the value of the underlying portfolio. The value of the underlying portfolio is: (1) the total market value of the net stock position; and (2) for positions in excess of the standard limit, subtract the underlying market value of: (i) any offsetting calls and puts in the respective index option; (ii) any offsetting positions in related stock index futures or options; and (iii) any economically equivalent positions (assuming no other hedges for these contracts exist). The following procedures and criteria must be satisfied to qualify for an industry index hedge exemption:

(1) The hedge exemption account must have received prior Exchange approval for the hedge exemption specifying the maximum number of contracts that may be exempt under this Interpretation. The hedge exemption account must have provided all information required on Exchange-approved forms and must have kept such information current. Exchange approval may be granted on the basis of verbal representations, in which event the hedge exemption account shall within two business days, or such other time period designated by the Exchange, furnish the Exchange with appropriate forms and



documentation substantiating the basis for the exemption. The hedge exemption account may apply from time to time for an increase in the maximum number of contracts exempt from the position limits.

(2) A hedge exemption account that is not carried by a Member must be carried by a member of a self-regulatory organization participating in the Intermarket Surveillance Group.

(3) The hedge exemption account: shall liquidate and establish options, stock positions, or economically equivalent positions in an orderly fashion; shall not initiate or liquidate positions in a manner calculated to cause unreasonable price fluctuations or unwarranted price changes; and shall not initiate or liquidate a 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. The hedge exemption account shall liquidate any options prior to or contemporaneously with a decrease in the hedged value of the portfolio which options would thereby be rendered excessive. The hedge exemption account shall promptly notify the Exchange of any change in the portfolio which materially affects the unhedged value of the portfolio.

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

(5) The hedge exemption account shall promptly provide to the Exchange any information requested concerning the portfolio.

(6) Positions included in a portfolio that serve to secure an index hedge exemption may not also be used to secure any other position limit exemption granted by the Exchange or any other self regulatory organization or futures contract market.

(7) Any Member that maintains an industry index options position in such Member's own account or in a customer account, and has reason to believe that such position is in excess of the applicable limit, shall promptly take the action necessary to bring the position into compliance. Failure to abide by this provision shall be deemed to be a violation of Rule 412 and this Rule 2006 by the Member.

(8) Violation of any of the provisions of this Rule 2006, absent reasonable justification or excuse, shall result in withdrawal of the index hedge exemption and may form the basis for subsequent denial of an application for an index hedge exemption hereunder.

[Adopted August 25, 2003 (SR-ISE-2003-05); amended October 1, 2003 (SR-ISE-2003-18); amended February 1, 2005 (SR-ISE-2005-01); amended December 5, 2005 (SR-ISE-2005-45).]

### **Rule 2007. Exercise Limits**

(a) In determining compliance with Rule 414, exercise limits for index options contracts shall be equivalent to the position limits prescribed for options contracts with the nearest expiration date in Rule 2004 or 2005. There may be no exercise limits for Specified (as provided in Rule 2000) broad-based index options.

(b) For a market-maker granted an exemption to position limits pursuant to Rule 413(b), the number of contracts that can be exercised over a five business day period shall equal the market-maker's exempted position.

(c) In determining compliance with exercise limits applicable to stock index options, options contracts on a stock index group shall not be aggregated with options contracts on an underlying stock or stocks included in such group, options contracts on one stock index group shall not be aggregated with options contracts on any other stock index group.

(d) With respect to index options contracts for which an exemption has been granted in accordance with the provisions of Rule 2006(a), the exercise limit shall be equal to the amount of the exemption.

[Adopted August 25, 2003 (SR-ISE-2003-05).]

### **Rule 2008. Trading Sessions**

(a) *Days and Hours of Business.* Except as otherwise provided in this Rule or under unusual conditions as may be determined by the President or his designee, transactions in index options may be effected on the Exchange between the hours of 9:30 a.m. and 4:15 p.m. Eastern time. With respect to options on foreign indexes, an Exchange official designated by the Board shall determine the days and hours of business.

(b) *Trading Rotations.* The opening rotation for index options shall be held at or as soon as practicable after 9:30 a.m. Eastern time. An Exchange official designated by the Board may delay the commencement of the opening rotation in an index option whenever in the judgment of that official such action is appropriate in the interests of a fair and orderly market. Among the factors that may be considered in making these determinations are: (1) unusual conditions or circumstances in other markets; (2) an influx of orders that has adversely affected the ability of the Primary Market Maker to provide and to maintain fair and orderly markets; (3) activation of opening price limits in stock index futures on one or more futures exchanges; (4) activation of daily price limits in stock index futures on one or more futures exchanges; (5) the extent to which either there has been a delay in opening or trading is not occurring in stocks underlying the index; and (6) circumstances such as those which would result in the declaration of a fast market under Rule 804(d).

(c) *Instituting Halts and Suspensions.* Trading on the Exchange in any index option shall be halted or suspended whenever trading in underlying securities whose weighted value represents more than twenty percent (20%), in the case of a broad based index, and ten percent (10%) for all other indices, of the index value is halted or suspended. An Exchange official designated by the Board also may halt trading in an index option when, in his or her judgment, such action is appropriate in the interests of a fair and orderly market and to protect investors. Among the facts that may be considered are the following:

- (1) whether all trading has been halted or suspended in the market that is the primary market for a plurality of the underlying stocks;
- (2) whether the current calculation of the index derived from the current market prices of the stocks is not available;
- (3) the extent to which the rotation has been completed or other factors regarding the status of the rotation; and
- (4) other unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market are present, including, but not limited to, the activation of price limits on futures exchanges.

(d) *Resumption of Trading Following a Halt or Suspension.* Trading in options of a class or series that has been the subject of a halt or suspension by the Exchange may resume if an Exchange official designated by the Board determines that the interests of a fair and orderly market are served by a resumption of trading. Among the factors to be considered in making this determination are whether the conditions that led to the halt or suspension are no longer present, and the extent to which trading is occurring in stocks underlying the index. Upon reopening, a rotation shall be held in each class of index options unless an Exchange official designated by the Board concludes that a different method of reopening is appropriate under the circumstances, including but not limited to, no rotation, an abbreviated rotation or any other variation in the manner of the rotation.

(e) *Circuit Breakers.* Rule 703 applies to index options trading with respect to the initiation of a marketwide trading halt commonly known as a "circuit breaker."

(f) *Special Provisions for Foreign Indices.* When the hours of trading of the underlying primary securities market for an index option do not overlap or coincide with those of the Exchange, all of the provisions as described in paragraphs (c), (d) and (e) above shall not apply except for (c)(4).

(g) *Pricing When Primary Market Does Not Open.* When the primary market for a security underlying the current index value of an index option does not open for trading on a given day, the price of that security shall be determined, for the purposes of calculating the current index value at expiration, based on the opening price of that security on the next day that its primary market is open for trading. This

procedure shall not be used if the current index value at expiration is fixed in accordance with the Rules and By-Laws of the Clearing Corporation.

[Adopted August 25, 2003 (SR-ISE-2003-05).]

## **Rule 2009. Terms of Index Options Contracts**

### **(a) General.**

(1) *Meaning of Premium Bids and Offers.* Bids and offers shall be expressed in terms of dollars and cents per unit of the index.

(2) *Exercise Prices.* The Exchange shall determine fixed-point intervals of exercise prices for call and put options.

(3) *Expiration Months.* Index options contracts may expire at three (3)-month intervals or in consecutive months. The Exchange may list up to six (6) expiration months at any one time, but will not list index options that expire more than twelve (12) months out.

(4) *"European-Style Exercise."* The following European-style index options, some of which may be A.M.-settled as provided in paragraph (a)(5), are approved for trading on the Exchange:

- (i) S&P SmallCap 600 Index
- (ii) Morgan Stanley Technology Index
- (iii) S&P MidCap 400 Index
- (iv) Reduced Value S&P 1000 Index
- (v) Micro S&P 1000 Index
- (vi) Full-size Nasdaq 100 Index
- (vii) Mini Nasdaq 100 Index
- (viii) Russell 3000 Index
- (ix) Mini Russell 3000 Index
- (x) Russell 3000 Value Index
- (xi) Mini Russell 3000 Value Index
- (xii) Russell 3000 Growth Index
- (xiii) Mini Russell 3000 Growth Index
- (xiv) Russell 2500 Index
- (xv) Mini Russell 2500 Index
- (xvi) Russell 2500 Value Index
- (xvii) Mini Russell 2500 Value Index
- (xviii) Russell 2500 Growth Index
- (xix) Mini Russell 2500 Growth Index
- (xx) Russell 2000 Index
- (xxi) Mini Russell 2000 Index
- (xxii) Russell 2000 Value Index
- (xxiii) Mini Russell 2000 Value Index

- (xxiv) Russell 2000 Growth Index
- (xxv) Mini Russell 2000 Growth Index
- (xxvi) Russell 1000 Index
- (xxvii) Mini Russell 1000 Index
- (xxviii) Russell 1000 Value Index
- (xxix) Mini Russell 1000 Value Index
- (xxx) Russell 1000 Growth Index
- (xxxi) Mini Russell 1000 Growth Index
- (xxxii) Russell Top 200 Index
- (xxxiii) Mini Russell Top 200 Index
- (xxxiv) Russell Top 200 Value Index
- (xxxv) Mini Russell Top 200 Value Index
- (xxxvi) Russell Top 200 Growth Index
- (xxxvii) Mini Russell Top 200 Growth Index
- (xxxviii) Russell MidCap Index
- (xxxix) Mini Russell MidCap Index
- (xl) Russell MidCap Value Index
- (xli) Mini Russell MidCap Value Index
- (xlii) Russell MidCap Growth Index
- (xliii) Mini Russell MidCap Growth Index
- (xliv) Russell Small Cap Completeness Index
- (xlv) Mini Russell Small Cap Completeness Index
- (xlvi) Russell Small Cap Completeness Value Index
- (xlvii) Mini Russell Small Cap Completeness Value Index
- (xlviii) Russell Small Cap Completeness Growth Index
- (xlix) Mini Russell Small Cap Completeness Growth Index
- (l) Mini NYSE U.S. 100 Index
- (li) Micro NYSE U.S. 100 Index
- (lii) Mini NYSE International 100 Index
- (liii) Micro NYSE International 100 Index
- (liv) Mini NYSE World Leaders Index
- (lv) Micro NYSE World Leaders Index
- (lvi) Mini NYSE TMT Index
- (lvii) Micro NYSE TMT Index
- (lviii) ISE-CCM Homeland Security Index
- (lix) ISE Oil & Gas Services Index
- (lx) ISE Semiconductors Index
- (lxi) ISE Gold Index
- (lxii) ISE Homebuilders Index
- (lxiii) ISE 250 Index
- (lxiv) Mini ISE 250 Index
- (lxv) ISE 100 Index
- (lxvi) Mini ISE 100 Index
- (lxvii) ISE 50 Index
- (lxviii) Mini ISE 50 Index
- (lxix) ISE U.S. Regional Banks Index
- (lxx) ISE SINdex

- (lxxi) ISE Bio-Pharmaceuticals Index
- (lxxii) ISE Water Index
- (lxxiii) ISE-CCM Alternative Energy Index
- (lxxiv) ISE-CCM Nanotechnology Index
- (lxxv) FTSE 100 Index
- (lxxvi) Mini FTSE 100 Index
- (lxxvii) Micro FTSE 100 Index
- (lxxviii) FTSE 250 Index
- (lxxix) Mini FTSE 250 Index
- (lxxx) Micro FTSE 250 Index
- (lxxxii) ISE-Revere Natural Gas Index
- (lxxxiii) KBW Bank Index
- (lxxxiii) ISE Integrated Oil and Gas Index
- (lxxxiv) ISE-Revere Wal-Mart Supplier Index

(5) *A.M.-Settled Index Options*. The last day of trading for A.M.-settled index options shall be the business day preceding the last day of trading in the underlying securities prior to expiration. The current index value at the expiration of an A.M.-settled index option shall be determined, for all purposes under these Rules and the Rules of the Clearing Corporation, on the last day of trading in the underlying securities prior to expiration, by reference to the reported level of such index as derived from first reported sale (opening) prices of the underlying securities on such day, except that:

(i) In the event that the primary market for an underlying security does not open for trading on that day, the price of that security shall be determined, for the purposes of calculating the current index value at expiration, as set forth in Rule 2008(g), unless the current index value at expiration is fixed in accordance with the Rules and By-Laws of the Clearing Corporation; and

(ii) In the event that the primary market for an underlying security is open for trading on that day, but that particular security does not open for trading on that day, the price of that security, for the purposes of calculating the current index value at expiration, shall be the last reported sale price of the security.

The following A.M.-settled index options that are approved for trading on the Exchange:

- (i) S&P SmallCap 600 Index
- (ii) Morgan Stanley Technology Index
- (iii) S&P MidCap 400 Index
- (iv) Reduced Value S&P 1000 Index
- (v) Micro S&P 1000 Index
- (vi) Full-size Nasdaq 100 Index
- (vii) Mini Nasdaq 100 Index

- (viii) Russell 3000 Index
- (ix) Mini Russell 3000 Index
- (x) Russell 3000 Value Index
- (xi) Mini Russell 3000 Value Index
- (xii) Russell 3000 Growth Index
- (xiii) Mini Russell 3000 Growth Index
- (xiv) Russell 2500 Index
- (xv) Mini Russell 2500 Index
- (xvi) Russell 2500 Value Index
- (xvii) Mini Russell 2500 Value Index
- (xviii) Russell 2500 Growth Index
- (xix) Mini Russell 2500 Growth Index
- (xx) Russell 2000 Index
- (xxi) Mini Russell 2000 Index
- (xxii) Russell 2000 Value Index
- (xxiii) Mini Russell 2000 Value Index
- (xxiv) Russell 2000 Growth Index
- (xxv) Mini Russell 2000 Growth Index
- (xxvi) Russell 1000 Index
- (xxvii) Mini Russell 1000 Index
- (xxviii) Russell 1000 Value Index
- (xxix) Mini Russell 1000 Value Index
- (xxx) Russell 1000 Growth Index
- (xxxi) Mini Russell 1000 Growth Index
- (xxxii) Russell Top 200 Index
- (xxxiii) Mini Russell Top 200 Index
- (xxxiv) Russell Top 200 Value Index
- (xxxv) Mini Russell Top 200 Value Index
- (xxxvi) Russell Top 200 Growth Index
- (xxxvii) Mini Russell Top 200 Growth Index
- (xxxviii) Russell MidCap Index
- (xxxix) Mini Russell MidCap Index
- (xl) Russell MidCap Value Index
- (xli) Mini Russell MidCap Value Index
- (xlii) Russell MidCap Growth Index
- (xliii) Mini Russell MidCap Growth Index
- (xliv) Russell Small Cap Completeness Index
- (xlv) Mini Russell Small Cap Completeness Index
- (xlvi) Russell Small Cap Completeness Value Index
- (xlvii) Mini Russell Small Cap Completeness Value Index
- (xlviii) Russell Small Cap Completeness Growth Index
- (xlix) Mini Russell Small Cap Completeness Growth Index
- (l) Mini NYSE U.S. 100 Index
- (li) Micro NYSE U.S. 100 Index
- (lii) Mini NYSE International 100 Index
- (liii) Micro NYSE International 100 Index
- (liv) Mini NYSE World Leaders Index

- (lv) Micro NYSE World Leaders Index
- (lvi) Mini NYSE TMT Index
- (lvii) Micro NYSE TMT Index
- (lviii) ISE-CCM Homeland Security Index
- (lix) ISE Oil & Gas Services Index
- (lx) ISE Semiconductors Index
- (lxi) ISE Gold Index
- (lxii) ISE Homebuilders Index
- (lxiii) ISE 250 Index
- (lxiv) Mini ISE 250 Index
- (lxv) ISE 100 Index
- (lxvi) Mini ISE 100 Index
- (lxvii) ISE 50 Index
- (lxviii) Mini ISE 50 Index
- (lix) ISE U.S. Regional Banks Index
- (lxx) ISE SINDEX
- (lxxi) ISE Bio-Pharmaceuticals Index
- (lxxii) ISE Water Index
- (lxxiii) ISE-CCM Alternative Energy Index
- (lxxiv) ISE-CCM Nanotechnology Index
- (lxxv) FTSE 100 Index
- (lxxvi) Mini FTSE 100 Index
- (lxxvii) Micro FTSE 100 Index
- (lxxviii) FTSE 250 Index
- (lxxix) Mini FTSE 250 Index
- (lxxx) Micro FTSE 250 Index
- (lxxxii) ISE-Revere Natural Gas Index
- (lxxxiii) KBW Bank Index
- (lxxxiv) ISE Integrated Oil and Gas Index
- (lxxxv) ISE-Revere Wal-Mart Supplier Index

(b) *Long-Term Index Options Series.*

(1) Notwithstanding the provisions of Paragraph (a)(3), above, the Exchange may list long-term index options series that expire from twelve (12) to sixty (60) months from the date of issuance.

(i) Index long term options series may be based on either the full or reduced value of the underlying index. There may be up to ten (10) expiration months, none further out than sixty (60) 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 twelve (12) months.

(ii) When a new Index long term options 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.

(2) *Reduced-Value Long Term Options Series.*

(i) Reduced-value long term options series on the following stock indices are approved for trading on the Exchange:

- (A) S&P SmallCap 600 Index
- (B) Morgan Stanley Technology Index
- (C) S&P MidCap 400 Index

(ii) Expiration Months. Reduced-value long term options series may expire at six-month intervals. When a new expiration month is listed, series may be near or bracketing the current index value. Additional series may be added when the value of the underlying index increases or decreases by ten (10) to fifteen (15) percent.

(c) *Procedures for Adding and Deleting Strike Prices.* The procedures for adding and deleting strike prices for index options are provided in Rule 504, as amended by the following:

(1) The interval between strike prices will be no less than \$5.00; provided, that in the case of the following classes of index options, the interval between strike prices will be no less than \$2.50:

- (i) S&P SmallCap 600, if the strike price is less than \$200.00
- (ii) Morgan Stanley Technology Index, if the strike price is less than \$200.00
- (iii) S&P MidCap 400 Index, if the strike price is less than \$200.00
- (iv) Reduced Value S&P 1000 Index, if the strike price is less than \$200.00
- (v) Micro S&P 1000 Index, if the strike price is less than \$200.00
- (vi) Full-size Nasdaq 100 Index, if the strike price is less than \$200.00
- (vii) Mini Nasdaq 100 Index, if the strike price is less than \$200.00

- (viii) Russell 3000 Index, if the strike price is less than  
\$200.00
- (ix) Mini Russell 3000 Index, if the strike price is less than  
\$200.00
- (x) Russell 3000 Value Index, if the strike price is less than  
\$200.00
- (xi) Mini Russell 3000 Value Index, if the strike price is less  
than \$200.00
- (xii) Russell 3000 Growth Index, if the strike price is less  
than \$200.00
- (xiii) Mini Russell 3000 Growth Index, if the strike price is  
less than \$200.00
- (xiv) Russell 2500 Index, if the strike price is less than  
\$200.00
- (xv) Mini Russell 2500 Index, if the strike price is less than  
\$200.00
- (xvi) Russell 2500 Value Index, if the strike price is less than  
\$200.00
- (xvii) Mini Russell 2500 Value Index, if the strike price is less  
than \$200.00
- (xviii) Russell 2500 Growth Index, if the strike price is less  
than \$200.00
- (xix) Mini Russell 2500 Growth Index, if the strike price is  
less than \$200.00
- (xx) Russell 2000 Index, if the strike price is less than  
\$200.00
- (xxi) Mini Russell 2000 Index, if the strike price is less than  
\$200.00
- (xxii) Russell 2000 Value Index, if the strike price is less than  
\$200.00
- (xxiii) Mini Russell 2000 Value Index, if the strike price is less  
than \$200.00

(xxiv) Russell 2000 Growth Index, if the strike price is less than \$200.00

(xxv) Mini Russell 2000 Growth Index, if the strike price is less than \$200.00

(xxvi) Russell 1000 Index, if the strike price is less than \$200.00

(xxvii) Mini Russell 1000 Index, if the strike price is less than \$200.00

(xxviii) Russell 1000 Value Index, if the strike price is less than \$200.00

(xxix) Mini Russell 1000 Value Index, if the strike price is less than \$200.00

(xxx) Russell 1000 Growth Index, if the strike price is less than \$200.00

(xxxi) Mini Russell 1000 Growth Index, if the strike price is less than \$200.00

(xxxii) Russell Top 200 Index, if the strike price is less than \$200.00

(xxxiii) Mini Russell Top 200 Index, if the strike price is less than \$200.00

(xxxiv) Russell Top 200 Value Index, if the strike price is less than \$200.00

(xxxv) Mini Russell Top 200 Value Index, if the strike price is less than \$200.00

(xxxvi) Russell Top 200 Growth Index, if the strike price is less than \$200.00

(xxxvii) Mini Russell Top 200 Growth Index, if the strike price is less than \$200.00

(xxxviii) Russell MidCap Index, if the strike price is less than \$200.00

(xxxix) Mini Russell MidCap Index, if the strike price is less than \$200.00

(xl) Russell MidCap Value Index, if the strike price is less than \$200.00

(xli) Mini Russell MidCap Value Index, if the strike price is less than \$200.00

(xlii) Russell MidCap Growth Index, if the strike price is less than \$200.00

(xliii) Mini Russell MidCap Growth Index, if the strike price is less than \$200.00

(xliv) Russell Small Cap Completeness Index, if the strike price is less than \$200.00

(xlv) Mini Russell Small Cap Completeness Index, if the strike price is less than \$200.00

(xlvi) Russell Small Cap Completeness Value Index, if the strike price is less than \$200.00

(xlvii) Mini Russell Small Cap Completeness Value Index, if the strike price is less than \$200.00

(xlviii) Russell Small Cap Completeness Growth Index, if the strike price is less than \$200.00

(xlix) Mini Russell Small Cap Completeness Growth Index, if the strike price is less than \$200.00

(l) Mini NYSE U.S. 100 Index, if the strike price is less than \$200.00

(li) Micro NYSE U.S. 100 Index, if the strike price is less than \$200.00

(lii) Mini NYSE International 100 Index, if the strike price is less than \$200.00

(liii) Micro NYSE International 100 Index, if the strike price is less than \$200.00

(liv) Mini NYSE World Leaders Index, if the strike price is less than \$200.00

(lv) Micro NYSE World Leaders Index, if the strike price is less than \$200.00

(lvi) Mini NYSE TMT Index, if the strike price is less than \$200.00

(lvii) Micro NYSE TMT Index, if the strike price is less than \$200.00

(lviii) ISE-CCM Homeland Security Index, if the strike price is less than \$200.00

(lix) ISE Oil & Gas Services Index, if the strike price is less than \$200.00

(lx) ISE Semiconductors Index, if the strike price is less than \$200.00

(lxi) ISE Gold Index, if the strike price is less than \$200.00

(lxii) ISE Homebuilders Index, if the strike price is less than \$200.00

(lxiii) ISE 250 Index, if the strike price is less than \$200.00

(lxiv) Mini ISE 250 Index, if the strike price is less than \$200.00

(lxv) ISE 100 Index, if the strike price is less than \$200.00

(lxvi) Mini ISE 100 Index, if the strike price is less than \$200.00

(lxvii) ISE 50 Index, if the strike price is less than \$200.00

(lxviii) Mini ISE 50 Index, if the strike price is less than \$200.00

(lxix) ISE U.S. Regional Banks Index, if the strike price is less than \$200.00

(lxx) ISE SINDEX, if the strike price is less than \$200.00

(lxxi) ISE Bio-Pharmaceuticals Index, if the strike price is less than \$200.00

(lxxii) ISE Water Index, if the strike price is less than \$200.00

(lxxiii) ISE-CCM Alternative Energy Index, if the strike price is less than \$200.00

(lxxiv) ISE-CCM Nanotechnology Index, if the strike price is less than \$200.00

(lxxv) FTSE 100 Index, if the strike price is less than \$200.00

(lxxvi) Mini FTSE 100 Index, if the strike price is less than \$200.00

(lxxvii) Micro FTSE 100 Index, if the strike price is less than \$200.00

(lxxviii) FTSE 250 Index, if the strike price is less than \$200.00

(lxxix) Mini FTSE 250 Index, if the strike price is less than \$200.00

(lxxx) Micro FTSE 250 Index, if the strike price is less than \$200.00

(lxxxii) ISE-Revere Natural Gas Index, if the strike price is less than \$200.00

(lxxxiii) KBW bank Index, if the strike price is less than \$200.00

(lxxxiv) ISE Integrated Oil and Gas Index, if the strike price is less than \$200.00

(lxxxv) ISE-Revere Wal-Mart Supplier Index, if the strike price is less than \$200.00

(2) New series of index options contracts may be added up to the fifth business day prior to expiration.

(3) When new series of index options with a new expiration date are opened for trading, or when additional series of index options in an existing expiration date are opened for trading as the current value of the underlying index to which such series relate moves substantially from the exercise prices of series already opened, the exercise prices of such new or additional series shall be reasonably related to the current value of the underlying index at the time such series are first opened for trading. In the case of all classes of index

options, the term "reasonably related to the current value of the underlying index" shall have the meaning set forth in Paragraph (c)(4) below.

(4) Notwithstanding any other provision of this paragraph (c), the Exchange may open for trading additional series of the same class of index options as the current index value of the underlying index moves substantially from the exercise price of those index options that already have been opened for trading on the Exchange. The exercise price of each series of index options opened for trading on the Exchange shall be reasonably related to the current index value of the underlying index to which such series relates at or about the time such series of options is first opened for trading on the Exchange. The term "reasonably related to the current index value of the underlying index" means that the exercise price is within thirty percent (30%) of the current index value. The Exchange may also open for trading additional series of index options that are more than thirty percent (30%) away from the current index value, provided that demonstrated customer interest exists for such series, as expressed by institutional, corporate, or individual customers or their brokers. Market-makers trading for their own account shall not be considered when determining customer interest under this provision.

(d) *Index Level on the Last Day of Trading.* The reported level of the underlying index that is calculated by the reporting authority on the last day of trading in the underlying securities prior to expiration for purposes of determining the current index value at the expiration of an A.M.-settled index option may differ from the level of the index that is separately calculated and reported by the reporting authority and that reflects trading activity subsequent to the opening of trading in any of the underlying securities.

(e) *Index Values for Settlement.* The Rules of the Clearing Corporation specify that, unless the Rules of the Exchange provide otherwise, the current index value used to settle the exercise of an index options contract shall be the closing index for the day on which the index options contract is exercised in accordance with the Rules of the Clearing Corporation or, if such day is not a business day, for the most recent business day.

### **Supplementary Material to Rule 2009**

.01 *Short Term Option Series Pilot Program:* Notwithstanding the restriction in Rule 2009(a)(3), after an option class has been approved for listing and trading on the Exchange, the Exchange may open for trading on any Friday that is a business day ("Short Term Option Opening Date") series of options on that class that expire on the next Friday that is a business day ("Short Term Option Expiration Date"). If the Exchange is not open for business on a Friday, the Short Term Option Opening Date will be the first business day immediately prior to that Friday. Similarly, if the Exchange is not open for business on a Friday, the Short Term Option Expiration Date will be the first business day immediately prior to that Friday.

The Exchange may continue to list Short Term Option Series until the Short Term Option Series Pilot Program expires on July 12, 2007.

Regarding Short Term Option Series, the Exchange may select up to five (5) currently listed option classes in which Short Term Option Series may be opened on any Short Term Option Opening Date. In addition to the five-option class restriction, the Exchange may also list Short Term Option Series on any option classes that are selected by other securities exchanges that employ a similar Pilot Program under their respective rules. For each index option class eligible for participation in the Short Term Option Series Pilot Program, the Exchange may open up to five Short Term Option Series on index options for each expiration date in that class. The strike price of each Short Term Option Series will be fixed at a price per share, with at least two strikes prices above and two strike prices below the calculated index value of the underlying index at about the time that Short Term Option Series is opened for trading on the Exchange. No Short Term Option Series on an index option class may expire in the same week during which any monthly option series on the same index class expires.

The interval between strike prices on Short Term Option Series shall be the same as the strike prices for series in that same index option class that expire in accordance with the normal monthly expiration cycle.

*.02 Quarterly Options Series Pilot Program:* Notwithstanding the restriction in Rule 2009(a)(3), for a one-year pilot period, the Exchange may list and trade options series that expire at the close of business on the last business day of a calendar quarter ("Quarterly Options Series"). The Exchange may list Quarterly Options Series for up to five (5) currently listed options classes that are either index options or options on exchange traded funds. In addition, the Exchange may also list Quarterly Options Series on any options classes that are selected by other securities exchanges that employ a similar pilot program under their respective rules. The one-year pilot will commence the day the Exchange first initiates trading in a Quarterly Options Series, which shall be no later than July 24, 2006.

(a) The Exchange will list series that expire at the end of the next consecutive four (4) calendar quarters, as well as the fourth quarter of the next calendar year. For example, if the Exchange is trading Quarterly Options Series in the month of May 2006, it will list series that expire at the end of the second, third and fourth quarters of 2006, as well as the first and fourth quarters of 2007. Following the second quarter 2006 expiration, the Exchange will add series that expire at the end of the second quarter of 2007.

(b) The Exchange will not list a Short Term Option Series on an options class whose expiration coincides with that of a Quarterly Options Series on that same options class.

(c) Quarterly Options Series shall be P.M. settled.



(d) The strike price of each Quarterly Options Series will be fixed at a price per share, with at least two strike prices above and two strike prices below the value of the underlying security at about the time that a Quarterly Options Series is opened for trading on the Exchange. The Exchange shall list strike prices for a Quarterly Options Series that are within \$5 from the closing price of the underlying on the preceding day. The Exchange may open for trading additional Quarterly Options Series of the same class if the current index value of the underlying index moves substantially from the exercise price of those Quarterly Options Series that already have been opened for trading on the Exchange. The exercise price of each Quarterly Options Series opened for trading on the Exchange shall be reasonably related to the current index value of the underlying index to which such series relates at or about the time such series of options is first opened for trading on the Exchange. The term "reasonably related to the current index value of the underlying index" means that the exercise price is within thirty percent (30%) of the current index value. The Exchange may also open for trading additional Quarterly Options Series that are more than thirty percent (30%) away from the current index value, provided that demonstrated customer interest exists for such series, as expressed by institutional, corporate, or individual customers or their brokers. Market-makers trading for their own account shall not be considered when determining customer interest under this provision.

(e) The interval between strike prices on Quarterly Options Series shall be the same as the interval for strike prices for series in that same options class that expire in accordance with the normal monthly expiration cycle.

[Adopted August 25, 2003 (SR-ISE-2003-05); amended October 1, 2003 (SR-ISE-2003-18); amended March 18, 2004 (SR-ISE-2003-36); amended May 13, 2004 (SR-ISE-2004-08); amended December 27, 2004 (SR-ISE-2004-09); amended February 1, 2005 (SR-ISE-2005-01); amended April 27, 2005 (SR-ISE-2005-09); amended May 11, 2005 (SR-ISE-2004-27); amended June 10, 2005 (Form 19b-4(e)); amended June 23, 2005 (SR-ISE-2004-28); amended July 12, 2005 (SR-ISE-2005-17); amended July 18, 2005 (Form 19b-4(e)); amended January 10, 2006 (Form 19b-4(e)); amended March 14, 2006 (SR-ISE-2005-25); amended July 3, 2006 (SR-ISE-2006-37); amended July 10, 2006 (SR-ISE-2006-24); amended October 12, 2006 (Form 19b-4(e)); amended January 22, 2007 (Form 19b-4(e)); amended February 7, 2007 (Form 19b-4(e)).]

### **Rule 2010. Debit Put Spread Cash Account Transactions**

Debit put spread positions in European-style, broad-based index options traded on the Exchange (hereinafter "debit put spreads") may be maintained in a cash account as defined by Federal Reserve Board Regulation T Section 220.8 by a Public Customer, provided that the following procedures and criteria are met:

(a) The customer has received Exchange approval to maintain debit put spreads in a cash account carried by an Exchange member organization. A customer so approved is hereinafter referred to as a "spread exemption customer."

(b) The spread exemption customer has provided all information required on Exchange-approved forms and has kept such information current.

(c) The customer holds a net long position in each of the stocks of a portfolio that has been previously established or in securities readily convertible, and additionally in the case of convertible bonds economically convertible, into common stocks which would comprise a portfolio. The debit put spread position must be carried in an account with a member of a self-regulatory organization participating in the Intermarket Surveillance Group.

(d) The stock portfolio or its equivalent is composed of net long positions in common stocks in at least four industry groups and contains at least twenty (20) stocks, none of which accounts for more than fifteen percent (15%) of the value of the portfolio (hereinafter "qualified portfolio"). To remain qualified, a portfolio must at all times meet these standards notwithstanding trading activity in the stocks.

(e) The exemption applies to European-style broad-based index options dealt in on the Exchange to the extent the underlying value of such options position does not exceed the unhedged value of the qualified portfolio. The unhedged value would be determined as follows: (1) the values of the net long or short positions of all qualifying products in the portfolio are totaled; (2) for positions in excess of the standard limit, the underlying market value (A) of any economically equivalent opposite side of the market calls and puts in broad-based index options, and (B) of any opposite side of the market positions in stock index futures, options on stock index futures, and any economically equivalent opposite side of the market positions, assuming no other hedges for these contracts exist, is subtracted from the qualified portfolio; and (3) the market value of the resulting unhedged portfolio is equated to the appropriate number of exempt contracts as follows – the unhedged qualified portfolio is divided by the correspondent closing index value and the quotient is then divided by the index multiplier or 100.

(f) A debit put spread in Exchange-traded broad-based index options with European-style exercises is defined as a long put position coupled with a short put position overlying the same broad-based index and having an equivalent underlying aggregate index value, where the short put(s) expires with the long put(s), and the strike price of the long put(s) exceeds the strike price of the short put(s). A debit put spread will be permitted in the cash account as long as it is continuously associated with a qualified portfolio of securities with a current market value at least equal to the underlying aggregate index value of the long side of the debit put spread.

(g) The qualified portfolio must be maintained with either a Member, another broker-dealer, a bank, or securities depository.

(h) The spread exemption customer shall agree promptly to provide the Exchange any information requested concerning the dollar value and composition of the customer's stock portfolio, and the current debit put spread positions.

(1) The spread exemption customer shall agree to and any Member carrying an account for the customer shall:

(i) comply with all Exchange Rules and regulations;

(ii) liquidate any debit put spreads prior to or contemporaneously with a decrease in the market value of the qualified portfolio, which debit put spreads would thereby be rendered excessive; and

(iii) promptly notify the Exchange of any change in the qualified portfolio or the debit put spread position which causes the debit put spreads maintained in the cash account to be rendered excessive.

(i) If any Member carrying a cash account for a spread exemption customer with a debit put spread position dealt in on the Exchange has a reason to believe that as a result of an opening options transaction the customer would violate this spread exemption, and such opening transaction occurs, then the Member has violated this Rule 2010.

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

[Adopted August 25, 2003 (SR-ISE-2003-05).]

#### **Rule 2011. Disclaimers**

(a) *Applicability of Disclaimers.* The disclaimers in paragraph (b) below shall apply to the reporting authorities identified in the Supplemental Material to Rule 2001.

(b) *Disclaimer.* No reporting authority, and no affiliate of a reporting authority (each such reporting authority, its affiliates, and any other entity identified in this Rule are referred to collectively as a "Reporting Authority"), makes any warranty, express or implied, as to the results to be obtained by any person or entity from the use of an index it publishes, any opening, intra-day or closing value therefor, or any data included therein or relating thereto, in connection with the trading of any options contract based thereon or for any other purpose. The Reporting Authority shall obtain information for inclusion in, or for use in the calculation of, such index from sources it believes to be reliable, but the Reporting Authority does not guarantee the accuracy or completeness of such index, any opening, intra-day or closing value therefor, or any data included therein or related thereto. The Reporting Authority hereby disclaims all warranties of merchantability or fitness for a particular purpose or use with respect to such index, any opening, intra-day, or closing value therefor, any data included therein or relating thereto, or any options contract based thereon. The Reporting Authority shall have no liability for any damages, claims, losses (including any indirect or consequential losses), expenses, or delays, whether direct or indirect, foreseen or unforeseen,

suffered by any person arising out of any circumstance or occurrence relating to the person's use of such index, any opening, intra-day or closing value therefor, any data included therein or relating thereto, or any options contract based thereon, or arising out of any errors or delays in calculating or disseminating such index.

[Adopted August 25, 2003 (SR-ISE-2003-05).]

### **Rule 2012. Exercise of American-Style Index Options**

No Member may prepare, time stamp or submit an exercise instruction for an American-style index options series if the Member knows or has reason to know that the exercise instruction calls for the exercise of more contracts than the then "net long position" of the account for which the exercise instruction is to be tendered. For purposes of this Rule: (i) the term "net long position" shall mean the net position of the account in such option at the opening of business of the day of such exercise instruction, plus the total number of such options purchased that day in opening purchase transactions up to the time of exercise, less the total number of such options sold that day in closing sale transactions up to the time of exercise; (ii) the "account" shall be the individual account of the particular customer, market-maker or "non-customer" (as that term is defined in the By-Laws of the Clearing Corporation) who wishes to exercise; and (iii) every transaction in an options series effected by a market-maker in a market-maker's account shall be deemed to be a closing transaction in respect of the market-maker's then positions in such options series. No Member may adjust the designation of an "opening transaction" in any such option to a "closing transaction" except to remedy mistakes or errors made in good faith.

[Adopted August 25, 2003 (SR-ISE-2003-05).]

## CHAPTER 21

### ISE Stock Exchange, LLC Trading Rules

#### Rule 2100. Introduction

(a) *General.* The ISE Stock Exchange is the Exchange's facility for trading Equity Securities. The Rules in this Chapter 21 are applicable only to trading on the ISE Stock Exchange. However, trading on the ISE Stock Exchange also is subject to the rules in Chapters 1 through 4, and 12 through 18, as specified in Appendix A, to the same extent as such rules apply to the trading of option contracts, provided that:

- (1) In some cases, such Rules specifically are supplemented by Rules in this Chapter;
- (2) Certain rules are specifically superseded by Rules in this Chapter; and
- (3) Such Rules shall not apply where the context otherwise requires.

Rule 2114 replaces Chapter 6 with respect to Members conducting business in Equity Securities and applies certain of the rules in that Chapter to trading on the ISE Stock Exchange. The Rules in Chapter 7 apply to the trading on the ISE Stock Exchange only as specified in paragraph (b) below. Appendix A to this Chapter lists the rules in Chapters 1 through 4, and 12 through 18 that are applicable to the trading of Equity Securities. Where appropriate, Appendix A also indicates that a rule in such Chapters has been supplemented by a rule in this Chapter.

(b) *Applicability of Specific Rules governing Business on the ISE Stock Exchange.* In addition to rules specifically amended by this filing, the following rules in Chapter 7 shall apply to the trading on the ISE Stock Exchange:

- (1) Rule 700, Days and Hours of Business, as modified by Rule 2102;
- (2) Rule 705, Limitation of Liability;
- (3) Rule 706, Access to and Conduct on the Exchange;
- (4) Rule 707, Clearing Member Give Up;
- (5) Rule 711, Acceptance of Quotes and Orders;
- (6) Rule 712, Submission of Orders and Clearance of Transactions, as modified by Rule 2117;

(7) Rule 719, Transaction Price Binding.

(c) *Definitions.* The following terms shall have the meaning specified in this Rule solely for the purpose of this Chapter 21:

(1) "Automated Quotation" means a quotation displayed by a Trading Center that: (i) permits an incoming order to be marked as immediate-or-cancel; (ii) immediately and automatically executes an order marked as immediate-or-cancel against the displayed quotation up to its full size; (iii) immediately and automatically cancels any unexecuted portion of an order marked as immediate-or-cancel without routing the order elsewhere; (iv) immediately and automatically transmits a response to the sender of an order marked as immediate-or-cancel indicating the action taken with respect to such order; and (v) immediately and automatically displays information that updates the displayed quotation to reflect any change to its material terms.

(2) "Automated Trading Center" means a Trading Center that: (i) has implemented such systems, procedures, and rules as are necessary to render it capable of displaying quotations that meet the requirements for an Automated Quotation; (ii) identifies all quotations other than Automated Quotations as Manual Quotations; (iii) immediately identifies its quotations as Manual Quotations whenever it has reason to believe that it is not capable of displaying Automated Quotations; and (iv) has adopted reasonable standards limiting when its quotations change from Automated Quotations to Manual Quotations, and vice versa, to specifically defined circumstances that promote fair and efficient access to its Automated Quotations and are consistent with the maintenance of fair and orderly markets.

(3) The "Best Available Price" on the ISE Stock Exchange means the highest bid price and the lowest offer price, including orders with executable undisplayed interest to buy or sell and interest to buy or sell that may exist in the MidPoint Match according to Rule 2129.

(4) "Crossing quotation" means the display of a bid for an NMS Stock during regular trading hours at a price that is higher than the price of an offer for such NMS Stock previously disseminated pursuant to an effective national market system plan, or the display of an offer for an NMS Stock during regular trading hours at a price that is lower than the price of a bid for such NMS Stock previously disseminated pursuant to an effective national market system plan.

(5) "Displayed Order" means a limit order that is displayed in the order book, in whole or in part, and is available for potential execution against all incoming orders until executed in full or canceled.

(6) "Equity EAM" means an Electronic Access Member authorized by the Exchange to trade on the ISE Stock Exchange. Any Electronic Access Member may become an Equity EAM upon certification of operational

connectivity to the ISE Stock Exchange, by paying any applicable access fees and establishing and maintaining the ability to clear ISE Stock Exchange trades at a clearing agency registered under Section 17A of the Exchange Act, either by self-clearing or through use of a member clearing firm.

(7) "Equity Securities" means common stock, Commodity-Based Trust Shares, Currency Trust Shares, Partnership Units, Trust-Issued Receipts including those based on Investment Shares, and Investment Company Units.

(8) "Locking Quotation" means the display of a bid for an NMS Stock during regular trading hours at a price that equals the price of an offer for such NMS Stock previously disseminated pursuant to an effective national market system plan, or the display of an offer for an NMS Stock during regular trading hours at a price that equals the price of a bid for such NMS Stock previously disseminated pursuant to an effective national market system plan.

(9) "Manual Quotation" means any quotation other than an Automated Quotation.

(10) "Mixed lots" means an order that is for more than a round lot unit of trading but not a multiple thereof.

(11) "NBBO" means the national best bid and offer in an Equity Security as calculated and disseminated pursuant to the Consolidated Quotation Plan or the Nasdaq/National Market System Unlisted Trading Privileges Plan, as applicable.

(12) "NMS Security" means any security or class of securities for which transaction reports are collected, processed, and made available pursuant to an effective transaction reporting plan, or an effective national market system plan for reporting transactions in listed options.

(13) "NMS Stock" means any NMS Security other than an option.

(14) "Odd lots" means an order to buy or sell less than one round lot.

(15) "Protected Bid" or "Protected Offer" means an Automated Quotation that is the best bid or best offer of an Automated Trading Center, as calculated and disseminated pursuant to the Consolidated Quotation Plan or the Nasdaq/National Market System Unlisted Trading Privileges Plan, as applicable.

(16) "Protected Quotation" means a Protected Bid or Protected Offer.

(17) "Round lot order" means an order to buy or sell in multiples of 100 shares, unless stated otherwise on a case-by-case basis.

(18) "Routing Agreement" means the form of Agreement between an Equity EAM and the broker-dealer routing facility of the ISE Stock Exchange, under which the broker-dealer routing facility of the ISE Stock Exchange, agrees to act as agent for routing orders of the Equity EAM entered into the ISE Stock Exchange to other market centers or broker-dealers for execution, other than orders excluded by the terms of the Routing Agreement, whenever such routing is required.

(19) "Trade-Through" means the purchase or sale of a security during regular trading hours at a price that is lower than a Protected Bid or higher than a Protected Offer.

(20) "Trading Center" means a national securities exchange or national securities association that operates an SRO trading facility, an alternative trading system, an exchange market maker, an OTC market maker, or any other broker or dealer that executes orders internally by trading as principal or crossing orders as agent.

[Adopted September 28, 2006 (SR-ISE-2006-48).]

#### **Rule 2101. Equity Securities Traded**

(a) *Unlisted Trading Privileges.* The Exchange will trade Equity Securities in its ISE Stock Exchange facility only pursuant to unlisted trading privileges ("UTP") in accordance with Section 12(f) of the Exchange Act and the rules and regulations promulgated thereunder. Any security traded on the ISE Stock Exchange must be registered under the Exchange Act and must be listed on the New York Stock Exchange, NYSE Arca or the American Stock Exchange, or must be admitted to trading on the NASDAQ Stock Market. The ISE Stock Exchange will cease trading any Equity Security admitted to UTP if such security no longer is either listed on the New York Stock Exchange, NYSE Arca or the American Stock Exchange or admitted to trading on the NASDAQ Stock Market. The Exchange will not list any Equity Securities. Therefore, the provisions of Rules 2123, 2124, 2125, 2126, and 2127 that permit the listing of Equity Securities other than common stock will not be effective until the Exchange files a proposed rule change under Section 19(b)(2) under the Exchange Act to amend its rules to comply with Rule 10A-3 under the Exchange Act and to incorporate qualitative listing criteria, and such proposed rule change is approved by the Commission.

(b) *Trading in the Exchange's Equity Securities.* If the Exchange trades its own securities, or the securities of an affiliate, or any entity that operates and/or owns a trading system or facility of the Exchange, on the ISE Stock Exchange, the Exchange shall file a report each quarter with the SEC describing: (i) the Exchange's monitoring of such issuer's compliance with the Exchange's listing standards (in the event the Exchange adopts such listing standards), including (a) the issuer's compliance with any applicable bid price requirement and (b) the issuer's compliance with each of the applicable quantitative and qualitative maintenance requirements; and (ii) the



Exchange's monitoring of the trading of the security, which shall include summaries of all related surveillance alerts, complaints, regulatory referrals, busted or adjusted trades, investigations, examinations, formal and informal disciplinary actions, exceptions reports and the trading data. In addition, if the Exchange adopts listing standards, once a year, an independent accounting firm shall review the listing standards for the subject security to ensure that the issuer is in compliance with such listing requirements, and a copy of the report shall be forwarded promptly to the Commission.

In the event the Exchange determines that the subject issuer is non-compliant with any listing standard, the Exchange shall file a report with the Commission at the same time the Exchange notifies the issuer of its non-compliance. The report shall identify the date of non-compliance, type of non-compliance, and any other material information conveyed to the issuer in the notice of non-compliance. Within five business days of receipt of a plan of remediation from the issuer, the Exchange shall notify the Commission of such receipt, whether the plan of remediation was accepted by the Exchange and the time period provided to regain compliance with the Exchange's listing standards.

[Adopted September 28, 2006 (SR-ISE-2006-48); amended December 5, 2006 (SR-ISE-2006-75).]

#### **Rule 2102. Hours of Business**

Except under unusual conditions as may be determined by the Board of Directors, the hours during which transactions may be made on the ISE Stock Exchange are:

(a) *Common Stocks*. The hours during which stock transactions may be made on the ISE Stock Exchange are 9:30 a.m. until 4:00 p.m. Eastern Time. Orders may be entered, but will not be executed, until an NBBO is established in a security at or after 9:30 a.m.

(b) *Securities Other than Common Stock*. The hours during which transactions may be made on the ISE Stock Exchange are as provided in Rules 2123 through 2127.

[Adopted September 28, 2006 (SR-ISE-2006-48).]

#### **Rule 2103. Exchange Authority**

In addition to such other powers and duties as the Board may prescribe, an Exchange official designated by the Board shall have the power: (a) to supervise the initiation of trading of Equity Securities on the ISE Stock Exchange; (b) to halt or to resume trading in an Equity Security on the ISE Stock Exchange when, in the opinion of such official, such action is appropriate in the interests of a fair and orderly market and to protect investors; (c) to resolve market disputes submitted to such officials by Equity EAMs; and (d) to regulate and supervise unusual situations that may arise in connection with trading on the ISE Stock Exchange when, in the opinion of such official, such action is appropriate in the interests of a fair and orderly market and to protect investors.

[Adopted September 28, 2006 (SR-ISE-2006-48).]

**Rule 2104. Types of Orders**

(a) *Market Orders*. An order to buy or sell the stated quantity that is to be executed at the Best Available Price(s) when the order reaches the ISE Stock Exchange.

(b) *Limit Orders*. An order to buy or sell a stated quantity at a specified price or better.

(c) *Day Orders*. Orders that expire at the end of the trading day on which they are entered.

(d) *Discretionary Orders*. Orders to buy or sell a stated amount of a security at a specified, undisplayed price (the "discretionary price"), in addition to at a specified, displayed price ("displayed price").

(e) *Fill-or-Kill ("FOK") Orders*. Orders that are to be executed in their entirety or canceled upon receipt.

(f) *Immediate-or-Cancel ("IOC") Orders*. Orders that are to be executed in whole or in part upon receipt, and if not so executed are to be canceled.

(g) *Intermarket Sweep Orders ("ISOs")*. With respect to orders received by the ISE Stock Exchange, ISOs are orders to be executed in whole or in part upon receipt on the ISE Stock Exchange without regard to better-priced quotations displayed at other Trading Centers, and if not so executed are to be canceled. With respect to orders sent by the ISE Stock Exchange to other Trading Centers, ISOs are orders to be executed in whole or in part at such Trading Centers without regard to better-priced quotations displayed at other Trading Centers, and if not so executed are to be canceled.

(h) *No MPM*. Market or limit orders that should not be executed against orders residing in the Midpoint Match. (See Rule 2129)

(i) *Not Routable*. Limit orders that are to be executed in whole or in part upon receipt, and if not fully executed, displayed on the ISE Stock Exchange if possible as provided in Rule 2107(b)(2)(iii).

(j) *Pegged Orders*. Limit orders to buy or sell a stated amount of a security at a displayed price set to track the current bid or ask of the NBBO in an amount specified by the Equity EAM. The tracking of the relevant Consolidated Quote information for Pegged Orders will occur on a real-time basis. The associated price of each Pegged Order that is updated will be assigned a new entry time with priority in accordance with Rule 2107. A Pegged Order may be designated as a Discretionary Order. The displayed price of a Pegged Order designated as a Discretionary Order will be used to reflect changes in the NBBO (the discretionary price of a Pegged Order will

re-price based on the corresponding change in the displayed price). If the calculated price for the Pegged Order would exceed its limit price, it will no longer track and will remain displayed at its limit price.

(k) *Post Only*. Limit orders that are to be displayed on the ISE Stock Exchange upon receipt or canceled.

(l) *Reserve Orders*. Limit orders with a portion of the size that is to be displayed and with a reserve portion of the size (“reserve size”) at the same price that is not to be displayed, but is to be used to refresh the displayed size when the displayed size is executed in full.

(m) *Stop Orders*. Orders that become market orders when the stop price is elected. A stop order to buy is elected when a transaction in the security occurs on the ISE Stock Exchange or on another Trading Center at or above the “stop” price. A stop order to sell is elected when a transaction in the security occurs on the ISE Stock Exchange or another Trading Center at or below the “stop” price.

(n) *Stop Limit Orders*. Orders that become limit orders when the stop price is elected. A stop limit order to buy is elected when a transaction in the security occurs on the ISE Stock Exchange or another Trading Center at or above the “stop” price. A stop limit order to sell is elected when a transaction in the security occurs on the ISE Stock Exchange or another Trading Center at or below the “stop” price.

[Adopted September 28, 2006 (SR-ISE-2006-48).]

## **2105. Order Entry**

(a) *Marking of Orders*. All orders must be marked as “buy,” “sell,” “sell short,” or “sell short exempt.”

(b) *Regular Way Trading*. Orders on the ISE Stock Exchange may only be “regular way,” that is, for delivery no later than the third business day following the day of the contract unless the rules of the Clearing Corporation otherwise direct.

### **(c) Order Specifications**

(1) All limit orders that are not immediately executed will be Day Orders.

(2) Odd-lot orders are rejected by the System.

(3) Mixed lot orders may be entered, but the odd lot component of a mixed lot order will not receive an execution and will be canceled upon the execution or cancellation of the last round lot component in the mixed lot order.

(d) Equity EAMs may enter into the ISE Stock Exchange the types of orders listed in Rule 2104; provided, however, no Equity EAM may enter an order other

than a Fill-or-Kill, Not-Routable, or Post Only Order unless the Equity EAM has entered into a Routing Agreement.

[Adopted September 28, 2006 (SR-ISE-2006-48).]

## **2106. Opening Process**

(a) *Order Entry and Cancellation before the Opening.* Prior to market open, Equity EAMs may enter orders.

(1) All order types other than Stop/Stop Limit, No MPM, Post Only, FOK and IOC may participate in the opening transaction. Reserve orders may participate to the full extent of their size. Discretionary orders may participate at their most aggressive prices. Pegged orders will have limit prices based upon the NBBO that is required for the opening transaction to occur.

(2) Orders to participate in the opening transaction may be to buy, sell or sell short exempt orders only.

(3) For orders greater than or equal to \$1.00, the ISE Stock Exchange and MPM orders will open together in a batch opening process.

(b) *Performing the Opening Transaction.* The Opening Transaction matches buy and sell orders that are executable at the midpoint of the NBBO as described in paragraph (d) below. All orders eligible to trade at the midpoint will be processed in time sequence, beginning with the oldest order. Matches will occur until there is no remaining volume or there is an imbalance of orders. An imbalance of orders on the buy side or sell side may result in orders that are not executed in whole or in part. Such orders may, in whole or in part, be displayed on the order book, canceled, or routed to other Trading Centers in accordance with Rule 2107(d).

(c) *Primary Market.* For the purposes of this Rule 2106, the primary market is the listing market for a security. If a security is traded on both the NYSE and the Amex, the primary market would be considered the NYSE. If a security is listed on both the NYSE and Nasdaq, the NYSE would be considered the primary market.

(d) *Determining the Opening Price.* The opening price will be at the midpoint of the NBBO.

(1) When the primary market is either the NYSE or the Amex, the opening trade will be executed at the midpoint of the first reported NBBO subsequent to a reported trade on the primary market after 9:30:00 a.m.

(2) When the primary market is Nasdaq or NYSE Arca, the opening trade will be executed at the midpoint of the first reported NBBO after 9:30:00 a.m.

(e) *Re-openings.* Re-openings will be handled in the same manner as openings.

(f) *Closing*. The System will cease matching orders in a security upon the close of the primary market for such security.

[Adopted September 28, 2006 (SR-ISE-2006-48); amended December 5, 2006 (SR-ISE-2006-75).]

## **2107. Priority and Execution of Orders**

(a) *Priority*. The highest priced displayed orders to buy and the lowest priced displayed orders to sell have priority on the ISE Stock Exchange (*i.e.*, price priority), unless price improvement is available in Midpoint Match (See 2129). If there are two or more orders at the same price, priority shall be afforded in the sequences in which they are received by the Exchange (*i.e.*, time priority).

(1) Reserve Orders. All displayed size of all orders at a particular price on the ISE Stock Exchange will be executed in full before the reserve size of a reserve order. When the displayed size of a reserve order is replenished from the reserve size, the displayed order is considered newly entered for purposes of time priority.

(2) Stop Limit Orders. Stop limit orders are considered newly entered at the time of their election for purposes of time priority.

(3) Pegged Orders. Pegged Orders are considered newly entered at each time the price of the pegged order is updated for purposes of time priority.

(b) *Order Execution*. All orders are handled automatically by the ISE Stock Exchange. All orders are available for price improvement at the midpoint of the NBBO if contra-side interest exists in Midpoint Match, unless marked "No MPM". Except as specified below in paragraph (c), orders will not be executed at prices that are inferior to Protected Quotations available at other Trading Centers.

### (1) Regular Orders.

(i) *Market orders*. Market orders are executed immediately upon receipt at the Best Available Prices to the greatest extent possible without causing a Trade-Through. Any unexecuted balance of a market order will be routed to another Trading Center(s) with a Protected Bid or Protected Offer as provided in paragraph (d) below.

(ii) *Marketable Limit Orders*. Limit Orders that are executable immediately upon receipt will be immediately executed at the Best Available Prices to the greatest extent possible without causing a Trade-Through. Any unexecuted balance of a limit order will be routed to another Trading Center(s) with a Protected Bid or Protected Offer and/or placed on the ISE Stock Exchange order book as provided in paragraph (d) below.

(2) Special Orders.

(i) Immediate-or-Cancel. IOC orders are immediately executed upon receipt at the Best Available Prices to the greatest extent possible without causing a Trade-Through. Any unexecuted balance of an IOC order will be canceled.

(ii) Fill-or-Kill. FOK orders are immediately executed upon receipt in their entirety at the Best Available Prices possible without causing a Trade-Through. If an FOK order cannot be executed on the ISE Stock Exchange in its entirety without causing a Trade-Through, it will be canceled.

(iii) Not Routable. Not routable orders that are executable upon receipt will be immediately executed at the Best Available Prices to the greatest extent possible without causing a Trade-Through. Any unexecuted balance of a not routable order either will be (A) canceled if the order is executable against a Protected Bid or Protected Offer at another Trading Center, or (B) placed on the ISE Stock Exchange order book.

(iv) Post Only. Post only orders will be placed on the ISE Stock Exchange order book upon receipt, or will be canceled if they cannot be placed on the order book because either they are executable (A) upon entry, or (B) against a Protected Bid or Protected Offer at another Trading Center.

(v) Stop Orders and Stop Limit Orders. A stop order is considered a market order at the time it is elected and will be handled according to (b)(1)(i) above. A stop limit order is considered a limit order at the time it is elected and will be handled according to (b)(1)(ii) above.

(vi) Short Sale Orders. Short sale orders will be executed in accordance with Rule 2113 set forth below.

(vii) Discretionary Orders. If the price of a discretionary order, whether displayed or undisplayed, is executable immediately upon receipt, it will be handled according to (b)(1)(ii) above. The undisplayed price of a discretionary order is available for execution against opposing limit orders within the discretionary range (i.e., at the discretionary price or at a price that is between the displayed price and the discretionary price).

(c) *Trade-Through Exceptions.* The transactions in (b) above may be executed at prices that cause a Trade-Through in the following circumstances, as set forth in Rule 611 of Regulation NMS under the Securities Exchange Act of 1934:

(1) Self-help. If another Trading Center repeatedly fails to respond within one second to incoming orders attempting to access its Protected Quotations, the ISE Stock Exchange may bypass those Protected Quotations by:

(i) Notifying the non-responding Trading Center immediately after (or at the same time as) electing self-help; and

(ii) Assessing whether the cause of the problem lies with its own systems and, if so, taking immediate steps to resolve the problem.

(2) Intermarket Sweep Orders.

(i) The transaction that constitutes the Trade-Through is the execution of an order identified as an ISO, or;

(ii) The transaction that constitutes the Trade-Through is effected by the ISE Stock Exchange when it simultaneously routes an ISO to execute against the full displayed size of any Protected Quotations traded through.

(3) Crossed quotations. The transaction that constitutes the Trade-Through is executed at a time when the Protected Quotations are crossed.

(d) *Routing Order to Other Exchanges*. When the ISE Stock Exchange does not have contra-side interest resident in its System equal to or better than a Protected Bid or Protected Offer, it will handle orders that are marketable against a Protected Bid or Protected Offer at one or more Trading Centers as follows:

(1) Market Orders and Executable Limit Orders. An IOC or ISO will automatically be sent to one or more Trading Centers with a Protected Bid or Protected Offer that is better than the ISE Stock Exchange quote for the lesser of the full displayed size of the Protected Bid or Protected Offer or the balance of the order. Any additional balance of the order will be executed on the ISE Stock Exchange simultaneously. If the market is crossed, the order will be executed as described above in this section.

(2) Unexecutable Limit Orders. If display of a limit order (or any balance thereof) on the ISE Stock Exchange would lock or cross a Protected Bid or Protected Offer, an ISO order will automatically be sent to one or more Trading Centers with a Protected Bid or Protected Offer that would be locked or crossed by the display of the order for up to the full displayed size of the Protected Bid or Protected Offer. Any additional balance of the order will be displayed on the ISE Stock Exchange immediately.

(3) Unexecutable Market Order. An IOC will automatically be sent to one or more Trading Centers with a Protected Bid or Protected Offer for

the full size of the market order that is not executable on the ISE Stock Exchange.

(4) Canceled Orders. If the System is unable to route an order(s) to one or more Trading Centers displaying a Protected Bid or Protected Offer and execution of the order(s) on the ISE Stock Exchange would cause a Trade-Through not permitted under paragraph (c) of this rule, the order(s) will be canceled.

***Supplementary Material to Rule 2107.***

.01 Except as provided in .02, prior to February 5, 2007, the ISE Stock Exchange will not execute orders at a price that is inferior to the NBBO. When the ISE Stock Exchange does not have contra-side interest resident in its System equal to or better than the NBBO, it will either:

(a) route orders that are marketable against the NBBO to the market(s) that is disseminating the NBBO price; or

(b) cancel orders that are marketable against the NBBO if the System is unable to route order(s) to the market(s) that is disseminating the NBBO price.

.02 Prior to February 5, 2007, the ISE Stock Exchange will accept and execute inbound Intermarket Sweep Orders (“ISOs”), as defined in Rule 600(b)(30) under Regulation NMS without regard to prices on other markets. An Equity EAM may submit an ISO only if it has simultaneously sent an ISO (or comparable order) for the full displayed size of all firm quotations that are disseminated pursuant to an effective national market system plan and are at a superior price to the ISE Stock Exchange’s Best Bid or Offer.

[Adopted September 28, 2006 (SR-ISE-2006-48); amended November 24, 2006 (SR-ISE-2006-68).]

**Rule 2108. Order Routing and Route Out Facility**

As described above, under certain circumstances, the Exchange will route orders entered into the System to other markets for execution. The Exchange shall enter into an agreement with a third party, to be a facility of the Exchange (“Routing Facility”), to provide these routing services.

(a) The Exchange shall establish and maintain procedures and internal controls reasonably designed to adequately restrict the flow of confidential and proprietary information between the Exchange and its facilities (including the Routing Facility), and any other entity, including any affiliate of the Routing Facility, and, if the Routing Facility or any of its affiliates engages in any other business activities other than providing routing services to the Exchange, between the segment of the Routing Facility or affiliate that provides the other business activities and the routing services.



(b) The books, records, premises, officers, directors, agents, and employees of the Routing Facility, as a facility of the Exchange, shall be deemed to be the books, records, premises, officers, directors, agents, and employees of the Exchange for purposes of and subject to oversight pursuant to the Exchange Act. The books and records of the Routing Facility, as a facility of the Exchange, shall be subject at all times to inspection and copying by the Exchange and the Commission.

[Adopted September 28, 2006 (SR-ISE-2006-48).]

**Rule 2109. Ex-Dividend**

Transactions in Equity Securities shall be ex-dividend or ex-rights on the second business day preceding the record date fixed by the issuer or the date of the closing of transfer books. Should such record date or such closing of transfer books occur upon a day other than a business day, this Rule shall apply for the third preceding business day.

[Adopted September 28, 2006 (SR-ISE-2006-48)].

**Rule 2110. Minimum Price Variation**

The minimum price variation ("MPV") for bids, offers, and orders that are displayed, ranked or accepted on the ISE Stock Exchange is \$0.01, with the exception of bids, offers, and orders that are priced less than \$1.00, for which the MPV is \$0.0001.

[Adopted September 28, 2006 (SR-ISE-2006-48).]

**Rule 2111. Manual Quotations**

*Identifying Quotations as "Manual"*. The ISE Stock Exchange will immediately identify its quotations as Manual Quotations whenever it has reason to believe that it is not capable of displaying Automated Quotations.

[Adopted September 28, 2006 (SR-ISE-2006-48).]

**Rule 2112. Locking or Crossing Quotations**

(a) *Definitions*. For purposes of this Rule, The terms automated quotation, effective national market system plan, intermarket sweep order, manual quotation, NMS stock, protected quotation, regular trading hours, and trading center shall have the meanings set forth in Rule 600(b) of Regulation NMS under the Securities Exchange Act of 1934.

(b) *Prohibition*. Except for quotations that fall within the provisions of paragraph (d) of this Rule, Members of the ISE Stock Exchange shall reasonably avoid displaying, and shall not engage in a pattern or practice of displaying, any quotations that lock or cross a Protected Quotation, and any manual quotations that lock or cross a quotation previously disseminated pursuant to an effective national market system plan.

(c) *Manual quotations.* If a Member of the ISE Stock Exchange displays a manual quotation that locks or crosses a quotation previously disseminated pursuant to an effective national market system plan, such Member of the Exchange must promptly either withdraw the manual quotation or route an intermarket sweep order to execute against the full displayed size of the locked or crossed quotation.

(d) *Exceptions.*

(1) The locking or crossing quotation was displayed at a time when the ISE Stock Exchange was experiencing a failure, material delay, or malfunction of its systems or equipment.

(2) The locking or crossing quotation was displayed at a time when a Protected Bid was higher than a Protected Offer in the NMS stock.

(3) The locking or crossing quotation was an Automated Quotation, and the Member simultaneously routed an intermarket sweep order to execute against the full displayed size of any locked or crossed protected quotation.

(4) The locking or crossing quotation was a manual quotation that locked or crossed another manual quotation, and the Member simultaneously routed an intermarket sweep order to execute against the full displayed size of the locked or crossed manual quotation.

[Adopted September 28, 2006 (SR-ISE-2006-48).]

### **Rule 2113. Long and Short Sales**

(a) *Order Marking.* No Equity EAM shall accept, represent or execute for its own account or the account of any other person an order to sell an Equity Security on the ISE Stock Exchange unless such order is marked "long," "short," or "short exempt" in accordance with Rule 242.200(g) under the Exchange Act; provided, however, that transactions, securities or persons exempted from Rule 242.200(g) under the Exchange Act by paragraph (h) of such Rule 242.200 also are exempted from the requirements of this paragraph.

(b) *Short Sales.* (1)(a) No Equity EAM shall, for its own account or the account of any other person, effect on the ISE Stock Exchange a short sale of any security registered on, or admitted to unlisted trading privileges on, a national securities exchange, if trades in such securities are reported pursuant to an "effective transaction reporting plan" as defined in Rule 242.600 under the Exchange Act and information as to such trades is made available in accordance with such plan on a real-time basis to vendors of market transaction information:

(i) Below the price at which the last sale thereof, regular way, was effected on the ISE Stock Exchange; or

(ii) At such price unless such price is above the next preceding different price at which a sale of such security, regular way, was effected on the ISE Stock Exchange.

(b) The provisions of paragraph (1)(a) of this section shall not apply to transactions by any person in Nasdaq securities as defined in Rule 242.600 of the Exchange Act, except for those Nasdaq securities for which transaction reports are collected, processed, and made available pursuant to the plan originally submitted to the Securities and Exchange Commission pursuant to Rule 240.17a-15 under the Exchange Act (subsequently amended and redesignated as Rule 240.11Aa3-1 under the Exchange Act and subsequently redesignated as Rule 242.601 under the Exchange Act), which plan was declared effective as of May 17, 1974.

(c) Transactions exempted from paragraphs (a) or (b) of Rule 10a-1 under the Exchange Act by paragraph (e) thereof, or by action of the SEC pursuant to paragraph (f) thereof, any order pursuant to Rule 242.202T under the Exchange Act or otherwise, also are exempted from the requirements of paragraph (b)(1)(a) herein.

(2) SOI Orders. Sell short SOI orders on the ISE Stock Exchange are not permitted. No Equity EAM shall, for its own account or the account of any other person, effect any short sale SOI Order on the ISE Stock Exchange.

(c) *Borrowing and Delivery Requirements.* No Equity EAM shall accept, represent or execute for its own account or the account of any other person an order to sell an Equity Security on the ISE Stock Exchange unless such Equity EAM complies with Rule 242.203 under the Exchange Act; provided, however, that transactions, securities or persons exempted from Rule 242.203 under the Exchange Act by paragraph (c) of such Rule 242.203 also are exempted from the requirements of this paragraph.

[Adopted August 31, 2006 (SR-ISE-2006-42); amended November 30, 2006 (SR-ISE-2006-71).]

#### **Rule 2114. Doing Business with the Public**

An Equity EAM that does business with the public must also be a member of the NASD.

[Adopted September 1, 2006 (SR-ISE-2006-53).]

#### **Rule 2115. Limitation on Reporting Authorities' Liability**

(a) The term "Reporting Authority," for purposes of this Rule, shall have the same meaning as set forth in Rule 2001(I).

(b) The disclaimers found under Rule 2011 shall apply to any Reporting Authority with respect to any index or portfolio underlying a series of index-related securities governed by the Rules of this Chapter. The terms "option" and "option contract" as used in Rule 2011 shall be deemed for the purpose of this Rule to include any index-related security governed by the Rules of this Chapter.

[Adopted September 28, 2006 (SR-ISE-2006-48).]

#### **Rule 2116. Sales Value Fee**

The Sales Value Fee is assessed by the Exchange to each Equity EAM for sales on the Exchange with respect to which the Exchange is obligated to pay a fee to the Commission under Section 31 of the Exchange Act. To the extent that there may be any excess monies collected under this rule, the Exchange may retain those monies to help fund its general operating expenses. The fee applies to the sale of all Equity Securities. The Exchange collects the fee indirectly from Equity EAMs through their clearing firms with respect to sales of such securities. The Sales Value Fee is equal to (a) the Section 31 fee rate multiplied by (b) the Equity EAM's aggregate dollar amount of covered sales resulting from transactions occurring on the Exchange during any computational period.

[Adopted September 28, 2006 (SR-ISE-2006-48).]

#### **Rule 2117. Settlement Through Clearing Corporations**

(a) The details of each transaction executed on the ISE Stock Exchange shall be automatically processed for clearance and settlement on a locked-in basis. Equity EAMs need not separately report their transactions to the Exchange for trade comparison purposes.

(b) An Equity EAM that does not maintain the ability to clear ISE Stock Exchange trades at a clearing agency registered under Section 17A of the Exchange Act, either by self-clearing or through use of a member clearing firm, will no longer be eligible to effect trades on the ISE Stock Exchange.

(c) Except as provided herein, transactions executed on the ISE Stock Exchange will be processed anonymously. The transaction reports will indicate the details of the transaction, but will not reveal contra party identities.

(d) The ISE Stock Exchange will reveal the identity of an Equity EAM or Equity EAM's clearing firm in the following circumstances:

(1) for regulatory purposes or to comply with an order of a court or arbitrator; or

(2) when the National Securities Clearing Corporation (“NSCC”) division of the Depository Trust and Clearing Corporation (“DTCC”) ceases to act for an Equity EAM or the Equity EAM's clearing firm and NSCC determines not to guarantee the settlement of the Equity EAM's trades; or

(3) on risk management reports provided to the contra party of the Equity EAM or Equity EAM's clearing firm each day after 4:00 p.m. that discloses trading activity on an aggregate dollar value basis.

(e) The ISE Stock Exchange will reveal to an Equity EAM, no later than the end of the day on the date an anonymous trade was executed, when that Equity EAM submits an order that has executed against an order submitted by that same Equity EAM.

(f) Any transaction occurring as a result of an order entered by an Equity EAM that is routed to another Trading Center pursuant to the rules of the Exchange shall be binding on the Equity EAM submitting the order and if the Equity EAM is not a self-clearing firm, then binding on the member clearing firm.

(g) In order to satisfy the Equity EAM's record keeping obligations under SEC Rules 17a-3(a)(1) and 17a-4(a), (i) the ISE Stock Exchange shall, with the exception of those circumstances described below in (ii), retain for the period specified in Rule 17a-4(a) the identity of each Equity EAM that executes an anonymous transaction described in paragraph (b) of this rule, and (iii) Equity EAMs shall retain the obligation to comply with SEC Rules 17-3(a)(1) and 17-4(a) whenever they possess the identity of their contra party. In either case, the information shall be retained in its original form or a form approved under Rule 17a-6.

[Adopted September 28, 2006 (SR-ISE-2006-48).]

#### **Rule 2118. Trade Modifiers**

Following the compliance date for Rule 611 of Regulation NMS, the ISE Stock Exchange shall identify all trades executed pursuant to an exception or exemption from Rule 611 of Regulation NMS in accordance with specifications approved by the operating committee of the relevant national market system plan for an NMS Stock. If a trade is executed pursuant to both the intermarket sweep order exception of Rule 611(b)(5) or (6) and the self-help exception of Rule 611(b)(1), such trade shall be identified as executed pursuant to the intermarket sweep order exception.

[Adopted September 28, 2006 (SR-ISE-2006-48).]

#### **Rule 2119. Equity EAMs Acting as Brokers**

(a) *While Holding Unexecuted Market Order.* No Equity EAM shall on the ISE Stock Exchange: (1) buy or initiate the purchase of any security subject to the rules in this Chapter for its own account or for any account in which it or any of its members, partners, officers, or employees is directly or indirectly interested, while such Equity

EAM has knowledge that it or any of members, partners, officers or employees holds an unexecuted market order to buy such security in the unit of trading for a customer; or (2) sell or initiate the sale of any security subject to the rules in this Chapter for any such account, while the Equity EAM holds or has knowledge that it or any of its members, partners, officers or employees holds an unexecuted market order to sell such security in the unit of trading for a customer.

(b) *While Holding Unexecuted Limit Order.* No Equity EAM shall on the ISE Stock Exchange (1) buy or initiate the purchase of any security subject to the rules in this Chapter for any such account, at or below the price at which it holds or has knowledge that it or any of its members, partners, officers or employees holds an unexecuted order with a boundary price to buy such security in the unit of trading for a customer; or (2) sell or initiate the sale of any security for any such account at or above the price at which it personally holds or has knowledge that it or any of its members, partners, officers or employees holds an unexecuted order with a boundary price to sell such security in the unit of trading for a customer.

[Adopted September 28, 2006 (SR-ISE-2006-48).]

### **Rule 2120. Taking or Supplying Securities**

No Equity EAM, who has accepted for execution, personally or through his firm or a partner, officer or shareholder thereof, an order for the purchase of securities shall fill such order by selling such securities for any account in which he or his firm, or a partner, officer or shareholder thereof has a direct or indirect interest, or having so accepted an order for the sale of securities shall fill such order by buying such securities for such an account, except as follows:

(a) An Equity EAM who neglects to execute an order may be compelled to take or supply for his own account or that of his firm the securities named in the order;

(b) An Equity EAM, acting for another member, may take the securities named in the order, provided (1) the price is justified by the condition of the market, and (2) the member who gave the order shall directly, or through a broker authorized to act for him, after prompt notification, accept the trade;

(c) An Equity EAM, acting for another member, may supply the securities named in the order, provided (1) the price is justified by the condition of the market and (2) the member who gave the order shall directly, or through a broker authorized to act for him, after prompt notification, accept the trade;

(d) An Equity EAM, acting as a broker, is permitted to report to his principal a transaction as made with himself when he has orders from two principals to buy and to sell the same security and not to give up his principals;

(e) An Equity EAM may purchase or sell for principal account the securities named in his customer's order provided that (1) the price is consistent with the market, and (2) full disclosure of the interest of the member is made to his customer on the confirmation of the trade.

[Adopted September 28, 2006 (SR-ISE-2006-48).]

**Rule 2121. Trading by an Equity EAM in Its Own or Its Parent Firm's Securities**

After the completion of a distribution of its securities, no Equity EAM that has any publicly-held securities outstanding shall effect any transaction (except on an unsolicited basis) for the account of any customer in, or make any recommendation of, any such security issued by the Equity EAM or any corporation controlling, controlled by or under common control with such Equity EAM.

[Adopted September 28, 2006 (SR-ISE-2006-48).]

**Rule 2122. Comparison Does Not Create Contract**

No comparison or failure to compare, and no notification or acceptance of notification of failure to receive or failure to deliver shall have the effect of creating or of canceling a contract, or of changing the terms thereof, or of releasing the original parties from liability.

[Adopted September 28, 2006 (SR-ISE-2006-48).]

**Rule 2123. Investment Company Unit**

The Exchange will consider for listing and/or trading, whether pursuant to Rule 19b-4(e) under the Securities Exchange Act of 1934 (the "Exchange Act") or otherwise, units of trading ("Units") that meet the criteria of this paragraph. A Unit is a security that represents an interest in a registered investment company ("Investment Company") that could be organized as a unit investment trust, an open-end management investment company, or a similar entity.

*(a) Original Unit Listing Standards.*

(1) The Investment Company must:

(i) hold securities (including fixed income securities) comprising, or otherwise based on or representing an investment in, an index or portfolio of securities; or

(ii) hold securities in another registered investment company that holds securities as described in (i) above.

An index or portfolio may be revised as necessary or appropriate to maintain the quality and character of the index or portfolio.

(2) The Investment Company must issue Units in a specified aggregate number in return for a deposit (the "Deposit") consisting of either:

(i) a specified number of shares of securities (or if applicable, a specified portfolio of fixed income securities) that comprise the index or portfolio, or are otherwise based on or represent an investment in securities comprising such index or portfolio, and/or a cash amount; or

(ii) shares of a registered investment company, as described in clause (a)(1)(ii) above, and/or a cash amount.

(3) Units must be redeemable, directly or indirectly, from the Investment Company for securities (including fixed income securities) and/or cash then comprising the Deposit. Units must pay holders periodic cash payments corresponding to the regular cash dividends or distributions declared with respect to the securities held by the Investment Company, less applicable expenses and charges.

(4) For each series of Investment Company Units the Exchange will establish a minimum number of Units required to be outstanding at the time of commencement of trading on the Exchange. Notwithstanding the foregoing, for the initial listing of a series of Investment Company Units in reliance upon Rule 19b-4(e) under the Exchange Act, there must be at least 100,000 Units outstanding prior to the commencement of trading of a series of Units on the Exchange.

(5) Voting rights shall be as set forth in the applicable Investment Company prospectus.

*(b) Underlying Indices and Portfolios.*

(1) The Exchange may list and/or trade specified series of Units, with each series based on a specified index or portfolio of securities.

(2) Upon the initial listing of a series of Investment Company Units on the Exchange in reliance upon Rule 19b-4(e) under the Exchange Act, the component stocks of an index or portfolio underlying such series shall meet the following criteria as of the date of the initial deposit of securities in connection with the initial issuance of such Investment Company Units:

(i) component stocks that in the aggregate account for at least 90 percent of the weight of the index or portfolio must have a minimum market value of at least \$75 million;

(ii) the component stocks representing at least 90 percent of the weight of the index or portfolio must have a minimum monthly trading volume during each of the last six months of at least 250,000 shares;

(iii) The most heavily weighted component stock may not exceed 30 percent of the weight of the index or portfolio, and the five most



heavily weighted component stocks may not exceed 65 percent of the weight of the index or portfolio;

(iv) the underlying index or portfolio must include a minimum of 13 stocks; and

(v) all securities in the underlying index or portfolio must be listed on a national securities exchange or The Nasdaq Stock Market (including the Nasdaq SmallCap Market).

(3) The value of the index or portfolio must be calculated and disseminated to the public at least once per business day; provided that, if the securities representing at least half the value of the index or portfolio are securities of a single country other than the United States, then the value of the index or portfolio may be calculated and disseminated to the public at least once per day that is a business day in that country. If a series of Investment Company Units is listed for trading on the Exchange in reliance upon Rule 19b-4(e) under the Exchange Act, the current value of the underlying index must be widely disseminated by one or more major market data vendors or disseminated over the consolidated tape at least every 15 seconds during trading hours on the Exchange. In addition, there must be similarly disseminated for that series an estimate, updated every 15 seconds, of the value of a share of each series. This may be based, for example, upon current information regarding the required deposit of securities plus any cash amount to permit creation of new shares of the series or upon the index value. If the Exchange is trading Investment Company Units pursuant to unlisted trading privileges, it will cease trading the Investment Company Unit if the primary listing exchange ceases trading the Investment Company Unit for any of the above reasons.

(4) If a series of Investment Company Units is listed for trading on the Exchange in reliance upon Rule 19b-4(e) under the Exchange Act:

(i) the index underlying the series must be calculated based on either the market capitalization, modified market capitalization, price equal-dollar or modified equal-dollar weighting methodology;

(ii) if the index is maintained by broker-dealer, (a) the broker-dealer must erect a "fire wall" around the personnel who have access to information concerning changes and adjustments to the index and (b) the index must be calculated by a third party who is not a broker-dealer; and

(5) If a series of Investment Company Units is listed for trading or traded pursuant to unlisted trading privileges on the Exchange in reliance upon Rule 19b-4(e) under the Exchange Act, the Exchange will implement written surveillance procedures applicable to such series. In addition, the Exchange will comply with the record-keeping requirements of Rule 19b-4(e) under the

Exchange Act, and will file Form 19b-4(e) for each series of Investment Company Units within five business days of the commencement of trading.

(c) *Continued Listing Criteria.* If the Exchange lists the Units, the Exchange will consider the suspension of trading and delisting of a series of Units in any of the following circumstances:

(1) Following the initial twelve-month period beginning upon the commencement of trading of a series of Units, there are fewer than 50 record and/or beneficial holders of Units for 30 or more consecutive trading days;

(2) The value of the index or portfolio of securities on which the series is based is no longer calculated or available; or

(3) Such other event shall occur or condition exist that, in the opinion of the Exchange, makes further dealings on the Exchange inadvisable.

In addition, the Exchange will remove Units from listing and trading upon termination of the issuing Investment Company.

If the Exchange is trading the Units pursuant to unlisted trading privileges, it will cease trading the Units if the primary listing exchange ceases trading the Units for any of the above reasons.

(d) *Provision of Prospectus and Written Description.*

(1) This paragraph shall apply only to a series of Investment Company Units as to which the sponsor or other appropriate party has obtained an exemption from Section 24(d) of the Investment Company Act. In connection with any such series of Investment Company Units listed on the Exchange, Equity EAMs must provide to all purchasers of such series a written description of the terms and characteristics of such securities, in a form prepared or approved by the Exchange, not later than the time a confirmation of the first transaction in such security is delivered to such purchaser. In addition, Equity EAMs must include such a written description with any sales material relating to such series that is provided to customers or the public. Any other written materials provided by an Equity EAM to customers or the public making specific reference to such a series of Investment Company Units as an investment vehicle must include a statement in substantially the following form:

"A circular describing the terms and characteristics of [the series of Investment Company Units] has been prepared by [Trust name] and is available from your broker or the ISE. It is recommended that you obtain and review such circular before purchasing [the series of Investment Company Units]. In addition, upon request you may obtain from your broker a prospectus for [the series of Investment Company Units]."

(2) An Equity EAM carrying an omnibus account for a non-member broker-dealer is required to inform such non-member that execution of an order to purchase a series of Investment Company Units for the omnibus account will be deemed to constitute agreement by the non-member to make the written description available to its customers on the same terms as are directly applicable to members under this Rule.

(3) Upon request of a customer, an Equity EAM shall also provide a prospectus for the particular series of Investment Company Units.

(e) *Limitation on Liability.* Neither the Exchange, any affiliate, nor any Index Licensor or Administrator guarantees the timeliness, sequence, accuracy or completeness of index and Investment Company Unit information. Neither the Exchange, any affiliate, nor any Index Licensor or Administrator shall have any liability for any loss, damages, claim or expense arising from or occasioned by any inaccuracy, error or delay in, or omission of or from, (i) any index and Investment Company Unit information or (ii) the collection, calculation, compilation, maintenance, reporting or dissemination of any index, any portfolio or any index and Investment Company Unit information, resulting either from any negligent act or omission by the Exchange, any affiliate or any Index Licensor or Administrator or from any act, condition or cause beyond the reasonable control of the Exchange, any affiliate or any Index Licensor or Administrator, including, but not limited to, flood, extraordinary weather conditions, earthquake or other act of God, fire, war, insurrection, riot, labor dispute, accident, action of government, communications or power failure, or equipment or software malfunction. Without limiting any of the foregoing, in no event shall the Exchange, any affiliate, or any index Licensor or Administrator have any liability for any lost profits or special, punitive, incidental, indirect or consequential damages, even if notified of the possibility of such damages.

(f) *No Warranties.* Neither the Exchange, any affiliate, nor any Index Licensor or Administrator makes any express or implied warranty as to results that any person or party may obtain from using (i) any Investment Company Unit, (ii) the index or portfolio that is the basis for determining the component stocks of an Investment Company Unit, or (iii) any index or Investment Company Unit information, for trading or any other purpose. The Exchange, its affiliates and each Index Licensor or Administrator makes no express or implied warranties, and disclaims all warranties of merchantability or fitness for a particular purpose or use, with respect to any such Investment Company Unit, index, portfolio or information.

(g) *Hours of Trading.* Any series of Investment Company Units so designated by the Exchange may be traded on the Exchange from 9:30 a.m. until 4:15 p.m. each business day.

[Adopted September 28, 2006 (SR-ISE-2006-48).]

#### **Rule 2124. Trust Issued Receipts**

(a) The Exchange will consider for trading, whether by listing or pursuant to unlisted trading privileges, Trust Issued Receipts that meet the criteria of this Rule.

(b) *Applicability.* This rule is applicable only to Trust Issued Receipts.

(c) *Prospectus Delivery.* Equity EAMs must provide to all purchasers of newly issued Trust Issued Receipts a prospectus for the series of Trust Issued Receipts.

(d) *Trading Hours.* Transactions in Trust Issued Receipts may be effected from 9:30 a.m. until either 4:00 p.m. or 4:15 p.m. for each series, as specified by the Exchange.

(e) *Definition.* "Trust Issued Receipt" means a security (i) that is issued by a trust ("Trust") that holds specified securities deposited with the Trust; (ii) that, when aggregated in some specified minimum number, may be surrendered to the trust by the beneficial owner to receive the securities; and (iii) that pays beneficial owners dividends and other distributions on the deposited securities, if any are declared and paid to the trustee by an issuer of the deposited securities.

(f) *Designation.* The Exchange may trade on its ISE Stock Exchange facility, pursuant to unlisted trading privileges, Trust Issued Receipts based on one or more securities. The Trust Issued Receipts based on particular securities shall be designated as a separate series and shall be identified by a unique symbol. The securities that are included in a series of Trust Issued Receipts shall be selected by the Exchange or by such other person as shall have a proprietary interest in such Trust Issued Receipts.

(g) *Initial and Continued Listing and/or Trading.* Trust Issued Receipts will be listed and/or traded on the Exchange subject to application of the following criteria:

(1) Commencement of Trading. For each Trust, the Exchange will establish a minimum number of Trust Issued Receipts required to be outstanding at the time of commencement of trading on the Exchange.

(2) Continued Trading. Following the initial twelve month period following formation of a Trust and commencement of trading on the Exchange, the Exchange will consider the suspension of trading in or removal from listing of or termination of unlisted trading privileges for a Trust upon which a series of Trust Issued Receipts is based under any of the following circumstances:

(i) if 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;

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

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

(iv) if any other event shall occur or condition exists which, in the opinion of the Exchange, makes further dealings on the Exchange inadvisable.

If the Exchange is trading the Trust Issued Receipts pursuant to unlisted trading privileges, it will cease trading the Trust Issued Receipts if the primary listing exchange ceases trading the Trust Issued Receipts for any of the above reasons.

Upon termination of a Trust, the Exchange requires that Trust Issued Receipts issued in connection with such trust be removed from listing or have their unlisted trading privileges terminated. A Trust may terminate in accordance with the provisions of the Trust prospectus, which may provide for termination if the value of securities in the Trust falls below a specified amount.

(h) *Term*. The stated term of the Trust shall be as stated in the Trust prospectus; however, a Trust may be terminated under such earlier circumstances as may be specified in the Trust prospectus.

(i) *Trustee*. The trustee must be a trust company or banking institution having substantial capital and surplus and the experience and facilities for handling corporate trust business. In cases where, for any reason, an individual has been appointed as trustee, as qualified trust company or banking institution must be appointed co-trustee.

(j) *Voting Rights*. Voting rights shall be as set forth in the applicable Trust prospectus.

### ***Supplementary Material to Rule 2124***

.01 The Exchange may approve trust issued receipts for trading, whether by listing or pursuant to unlisted trading privileges, pursuant to Rule 19b-4(e) under the Securities Exchange Act of 1934, provided that the following criteria are satisfied:

(a) each security underlying the trust issued receipt must be registered under Section 12 of the Exchange Act;

(b) each security underlying the trust issued receipt must have a minimum public float of at least \$150 million;

(c) each security underlying the trust issued receipt must be listed on a national securities exchange or traded through the facilities of Nasdaq as a reported national market system security;

(d) each security underlying the trust issued receipt must have an average daily trading volume of at least 100,000 shares during the preceding sixty-day trading period;

(e) each security underlying the trust issued receipt must have an average daily dollar value of shares traded during the preceding sixty-day trading period of at least \$1 million; and

(f) the most heavily weighted security in the trust issued receipt cannot initially represent more than 20% of the overall value of the trust issued receipt.

.02 (a) Provisions of this Commentary apply only to Trust Issued Receipts that invest in "Investment Shares" as defined below. Rules that reference Trust Issued Receipts shall also apply to Trust Issued Receipts investing in Investment Shares.

(b) *Definitions.* The following terms as used in this Commentary shall, unless the context otherwise requires, have the meanings herein specified:

(1) Investment Shares. The term "Investment Shares" means a security (a) that is issued by a trust, partnership, commodity pool or other similar entity that invests in any combination of futures contracts, options on futures contracts, forward contracts, commodities, swaps or high credit quality short-term fixed income securities or other securities; and (b) issued and redeemed daily at net asset value in amounts correlating to the number of receipts created and redeemed in a specified aggregate minimum number.

(2) Futures Contract. The term "futures contract" is commonly known as a "contract of sale of a commodity for future delivery" set forth in Section 2(a) of the Commodity Exchange Act.

(3) Forward Contract. A forward contract is a contract between two parties to purchase and sell a specific quantity of a commodity at a specified price with delivery and settlement at a future date. Forwards are traded over-the-counter ("OTC") and not listed on a futures exchange.

(c) *Designation.* The Exchange may list and trade Trust Issued Receipts investing in Investment Shares. Each issue of a Trust Issued Receipt based on a particular Investment Share shall be designated as a separate series and shall be identified by a unique symbol.

(d) *Initial and Continued Listing.* Trust Issued Receipts based on Investment Shares will be listed and/or traded on the Exchange subject to application of the following criteria:

(1) Initial Listing. The Exchange will establish a minimum number of receipts required to be outstanding at the time of commencement of trading on the Exchange.

(2) Continued Listing. The Exchange will consider removing from listing Trust Issued Receipts based on an Investment Share under any of the following circumstances:

(i) if following the initial twelve month period following the commencement of trading of the shares, (A) the Issuer 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; (B) if the Issuer has fewer than 50,000 securities or shares issued and outstanding; or (C) if the market value of all securities or shares issued and outstanding is less than \$1,000,000;

(ii) if the value of an underlying index or portfolio is no longer calculated or available on at least a 15-second delayed basis or the Exchange stops providing a hyperlink on its website to any such asset or investment value;

(iii) if the Indicative Value is no longer made available on at least a 15-second delayed basis; or

(iv) if such other event shall occur or condition exists which in the opinion of the Exchange makes further dealings on the Exchange inadvisable.

If the Exchange is trading the Trust Issued Receipts based on Investment Shares pursuant to unlisted trading privileges, it will cease trading such Trust Issued Receipts if the primary listing exchange ceases trading the Trust Issued Receipts for any of the above reasons.

Upon termination of the Trust, the Exchange requires that Trust Issued Receipts based on Investment Shares issued in connection with such Trust be removed from Exchange listing. A Trust may terminate in accordance with the provisions of the Trust prospectus, which may provide for termination if the value of the Trust falls below a specified amount.

(e) *Term.* The stated term of the Trust shall be as stated in the prospectus; however, such entity may be terminated under such earlier circumstances as may be specified in the Trust prospectus.

(f) *Trustee*. The following requirements apply:

(1) The trustee of a Trust must be a trust company or banking institution having substantial capital and surplus and the experience and facilities for handling corporate trust business. In cases where, for any reason, an individual has been appointed as trustee, a qualified trust company or banking institution must be appointed co-trustee;

(2) No change is to be made in the trustee of a listed issue without prior notice to and approval of the primary listing exchange.

(g) *Voting Rights*. Voting rights shall be as set forth in the applicable Trust prospectus.

(h) The Exchange will file separate proposals under Section 19(b) of the Securities Exchange Act of 1934 before trading, either by listing or trading pursuant to unlisted trading privileges Trust Issued Receipts based on separate Investment Shares.

(i) *Limitation on Liability*. Neither the Exchange nor any agent of the Exchange shall have any liability for damages, claims, losses or expenses caused by any errors, omissions, or delays in calculating or disseminating any underlying asset or commodity value, the current value of the underlying asset or commodity if required to be deposited to the Trust in connection with issuance of Trust Issued Receipts, net asset value, or other information relating to the purchase, redemption or trading of Trust Issued Receipts, resulting from any negligent act or omission by the Exchange or any agent of the Exchange, or any act, condition or cause beyond the reasonable control of the Exchange or its agent, including, but not limited to, an act of God, fire, flood, extraordinary weather conditions, war, insurrection, riot, strike, accident, action of government, communications or power failure, equipment or software malfunction, or any error, omission or delay in the reports of transactions in an underlying asset or commodity.

[Adopted September 28, 2006 (SR-ISE-2006-48).]

#### **Rule 2125. Commodity-Based Trust Shares**

(a) The Exchange will consider for trading, whether by listing or pursuant to unlisted trading privileges, Commodity-Based Trust Shares that meet the criteria of this Rule.

(b) *Applicability*. This rule is applicable only to Commodity-Based Trust Shares.



(c) *Prospectus Delivery.* Equity EAMs must provide to all purchasers of newly issued Commodity-Based Receipts a prospectus for the series of Commodity-Based Trust Shares.

(d) *Trading Hours.* Transactions in Commodity-Based Trust Shares will occur between 9:30 a.m. and either 4:00 p.m. or 4:15 p.m. for each series, as specified by the Exchange.

(e) *Definition.* "Commodity-Based Trust Shares" mean securities (i) that are issued by a trust ("Trust") that holds a specified commodity deposited with the Trust; (ii) that are issued by such Trust in a specified aggregate minimum number in return for a deposit of a quantity of the underlying commodity; and (iii) that, when aggregated in the same specified minimum number, may be redeemed at a holder's request by such Trust that will deliver to the redeeming holder the quantity of the underlying commodity. "Commodity" is defined in Section 1(a)(4) of the Commodity Exchange Act. Commodity-Based Trust Shares are included within the definition of "security" or "securities" as such terms are used in the Rules of the Exchange.

(f) *Designation.* The Exchange may trade on its ISE Stock Exchange facility, pursuant to unlisted trading privileges, Commodity-Based Trust Shares based on an underlying commodity. Each issue of a Commodity-Based Trust Share shall be designated as a separate series and shall be identified by a unique symbol.

(g) *Initial and Continued Listing.* Commodity-Based Trust Shares will be listed and traded on the Exchange subject to application of the following criteria:

(1) Initial Listing. The Exchange will establish a minimum number of Commodity-Based Trust Shares required to be outstanding at the time of commencement of trading on the Exchange.

(2) Continued Listing. Following the initial 12 month period following commencement of trading on the Exchange of Commodity-Based Trust Shares, the Exchange will consider the suspension of trading in or removal from listing of such series under any of the following circumstances:

(i) if the Trust has more than 60 days remaining until termination and there are fewer than 50 record and/or beneficial holders of Commodity-Based Trust Shares for 30 or more consecutive trading days; or

(ii) if the Trust has fewer than 50,000 receipts issued and outstanding; or

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

(iv) if the value of the underlying commodity is no longer calculated or available on at least a 15-second delayed basis from a source unaffiliated with the sponsor, Trust, custodian or the Exchange or the Exchange stops providing a hyperlink on its Web site to any such unaffiliated commodity value;

(v) if the Indicative Trust Value is no longer made available on at least a 15-second delayed basis; or

(vi) if such other event shall occur or condition exists which in the opinion of the Exchange makes further dealings on the Exchange inadvisable.

If the Exchange is trading Commodity-Based Trust Shares pursuant to unlisted trading privileges, it will cease trading the Commodity-Based Trust Shares if the primary listing exchange ceases trading such Shares for any of the above reasons.

Upon termination of a Trust, the Exchange requires that Commodity-Based Trust Shares issued in connection with such entity Trust be removed from Exchange listing. A Trust may terminate in accordance with the provisions of the Trust prospectus, which may provide for termination if the value of the Trust falls below a specified amount.

(h) *Term.* The stated term of the Trust shall be as stated in the Trust prospectus. However, a Trust may be terminated under such earlier circumstances as may be specified in the Trust prospectus.

(i) *Trustee.* The following requirements apply:

(i) The trustee of a Trust must be a trust company or banking institution having substantial capital and surplus and the experience and facilities for handling corporate trust business. In cases where, for any reason, an individual has been appointed as trustee, a qualified trust company or banking institution must be appointed co-trustee.

(ii) No change is to be made in the trustee of a listed issue without prior notice to and approval of the primary listing exchange.

(j) *Voting.* Voting rights shall be as set forth in the applicable Trust prospectus.

(k) *Limitation on Liability.* Neither the Exchange nor any agent of the Exchange shall have any liability for damages, claims, losses or expenses caused by

any errors, omissions, or delays in calculating or disseminating any underlying commodity value, the current value of the underlying commodity required to be deposited to the Trust in connection with issuance of Commodity-Based Trust Shares, resulting from any negligent act or omission by the Exchange, or any agent of the Exchange, or any act, condition or cause beyond the reasonable control of the Exchange, its agent, including, but not limited to, an act of God, fire, flood, extraordinary weather conditions, war, insurrection, riot, strike, accident, action of government, communications or power failure, equipment or software malfunction or any error, omission or delay in the reports of transactions in an underlying commodity.

**Supplementary Material to Rule 2125**

.01 A Commodity-Based Trust Share is a Trust Issued Receipt that holds a specified commodity deposited with the Trust.

.02 The Exchange will file separate proposals under Section 19(b) of the Securities Exchange Act of 1934 before trading, either by listing or pursuant to unlisted trading privileges, Commodity-Based Trust Shares.

[Adopted September 28, 2006 (SR-ISE-2006-48).]

**Rule 2126. Currency Trust Shares**

(a) The Exchange will consider for trading, whether by listing or pursuant to unlisted trading privileges, Currency Trust Shares that meet the criteria of this Rule.

(b) *Applicability.* This rule is applicable only to Currency Trust Shares.

(c) *Prospectus Delivery.* Equity EAMs must provide to all purchasers of newly issued Currency Trust Receipts a prospectus for the series of Commodity-Based Trust Shares.

(d) *Trading Hours.* Transactions in Currency Trust Shares will occur between 9:30 a.m. and either 4:00 p.m. or 4:15 p.m. for each series, as specified by the Exchange.

(e) *Definition.* "Currency Trust Shares" mean a security that (i) that is issued by a trust that holds a specified non-U.S. currency deposited with the trust; (ii) when aggregated in some specified minimum number may be surrendered to the trust by the beneficial owner to receive the specified non U.S. currency; and (iii) pays beneficial owners interest and other distributions on the deposited non-U.S. currency, if any, declared and paid by the trust. Currency Trust Shares are included within the definition of "security" or "securities" as such terms are used in the Rules of the Exchange.

(f) *Designation of Non-U.S. Currency.* The Exchange may trade through its ISE Stock Exchange facility, pursuant to unlisted trading privileges, Currency Trust

Shares that hold a specified non-U.S. currency or currencies. Each issue of a Currency Trust Share shall be designated as a separate series and shall be identified by a unique symbol.

(g) *Initial and Continued Listing.* Currency Trust Shares will be listed and traded on the Exchange subject to application of the following criteria:

(1) Initial Listing. The Exchange will establish a minimum number of Currency Trust Shares required to be outstanding at the time of commencement of trading on the Exchange.

(2) Continued Listing. Following the initial 12 month period following commencement of trading on the Exchange of Currency Trust Shares, the Exchange will consider the suspension of trading in or removal from listing of such series under any of the following circumstances:

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

(ii) if the Trust has fewer than 50,000 Currency Trust Shares issued and outstanding; or

(iii) if the market value of all Currency Trust Shares issued and outstanding is less than \$1,000,000; or

(iv) if the value of the applicable non-U.S. currency is no longer calculated or available on at least a 15-second delayed basis from a source unaffiliated with the sponsor, Trust, custodian or the Exchange or the Exchange stops providing a hyperlink on its Web site to any such unaffiliated applicable non-U.S. currency value;

(v) if the Indicative Trust Value is no longer made available on at least a 15-second delayed basis; or

(vi) if such other event shall occur or condition exists which in the opinion of the Exchange makes further dealings on the Exchange inadvisable.

If the Exchange is trading Currency Trust Shares pursuant to unlisted trading privileges, it will cease trading the Currency Trust Shares if the primary listing exchange ceases trading such Shares for any of the above reasons.

Upon termination of a Trust, the Exchange requires that Currency Trust Shares issued in connection with such entity Trust be removed from Exchange listing. A Trust may terminate in accordance with the provisions

of the Trust prospectus, which may provide for termination if the value of the Trust falls below a specified amount.

(h) *Term.* The stated term of the Trust shall be as stated in the Trust prospectus. However, a Trust may be terminated under such earlier circumstances as may be specified in the Trust prospectus.

(i) *Trustee.* The following requirements apply:

(1) The trustee of a Trust must be a trust company or banking institution having substantial capital and surplus and the experience and facilities for handling corporate trust business. In cases where, for any reason, an individual has been appointed as trustee, a qualified trust company or banking institution must be appointed co-trustee.

(2) No change is to be made in the trustee of a listed issue without prior notice to and approval of the primary listing exchange.

(j) *Voting.* Voting rights shall be as set forth in the applicable Trust prospectus.

(k) *Limitation on Liability.* Neither the Exchange nor any agent of the Exchange shall have any liability for damages, claims, losses or expenses caused by any errors, omissions, or delays in calculating or disseminating any applicable non-U.S. currency value, the current value of the applicable non-U.S. currency required to be deposited to the Trust in connection with issuance of Currency Trust Shares, net asset value, or any other information relating to the purchase, redemption, or trading of the Currency Trust Shares, resulting from any negligent act or omission by the Exchange, or any agent of the Exchange, or any act, condition or cause beyond the reasonable control of the Exchange, its agent, including, but not limited to, an act of God, fire, flood, extraordinary weather conditions, war, insurrection, riot, strike, accident, action of government, communications or power failure, equipment or software malfunction, or any error, omission or delay in the reports of transactions in an applicable non-U.S. currency.

### ***Supplementary Material to Rule 2126***

.01 A Currency Trust Share is a Trust Issued Receipt that holds a specified non-U.S. currency deposited with the Trust.

.02 The Exchange will file separate proposals under Section 19(b) of the Securities Exchange Act of 1934 before trading, either by listing or pursuant to unlisted trading privileges, Currency Trust Shares.

[Adopted September 28, 2006 (SR-ISE-2006-48).]

### **Rule 2127. Partnership Units**

(a) The Exchange will consider for trading, whether by listing or pursuant to unlisted trading privileges, Partnership Units that meet the criteria of this Rule.

(b) *Definitions.* The following terms as used in the Rule shall, unless the context otherwise requires, have the meanings herein specified:

(1) Commodity. The term "commodity" is defined in Section 1(a)(4) of the Commodity Exchange Act.

(2) Partnership Units. The term "Partnership Units" for purposes of this Rule means a security (a) that is issued by a partnership that invests in any combination of futures contracts, options on futures contracts, forward contracts, commodities and/or securities; and (b) that is issued and redeemed daily in specified aggregate amounts at net asset value.

(c) *Designation.* The Exchange may list and trade Partnership Units based on an underlying asset, commodity or security. Each issue of a Partnership Unit shall be designated as a separate series and shall be identified by a unique symbol.

(d) *Trading Hours.* Transactions in Currency Trust Shares will occur between 9:30 a.m. and either 4:00 p.m. or 4:15 p.m. for each series, as specified by the Exchange.

(e) *Initial and Continued Listing.* Partnership Units will be listed and/or traded on the Exchange subject to application of the following criteria:

(1) Initial Listing. The Exchange will establish a minimum number of Partnership Units required to be outstanding at the time of commencement of trading on the Exchange.

(2) Continued Listing. The Exchange will consider removing from listing Partnership Units under any of the following circumstances:

(i) if following the initial twelve month period following the commencement of trading of Partnership Units, (A) the partnership has more than 60 days remaining until termination and there are fewer than 50 record and/or beneficial holders of Partnership Units for 30 or more consecutive trading days; (B) if the partnership has fewer than 50,000 Partnership Units issued and outstanding; or (C) if the market value of all Partnership Units issued and outstanding is less than \$1,000,000;

(ii) if the value of the underlying benchmark investment, commodity or asset is no longer calculated or available on at least a 15-second delayed basis or the Exchange stops providing a hyperlink on its website to any such investment, commodity, or asset value;

(iii) if the Indicative Partnership Value is no longer made available on at least a 15-second delayed basis; or

(iv) if such other event shall occur or condition exists which in the opinion of the Exchange makes further dealings on the Exchange inadvisable.

If the Exchange is trading Partnership Units pursuant to unlisted trading privileges, it will cease trading the Partnership Units if the primary listing exchange ceases trading such Units for any of the above reasons.

Upon termination of a partnership, the Exchange requires that Partnership Units issued in connection with such partnership be removed from Exchange listing. A partnership will terminate in accordance with the provisions of the partnership prospectus.

(3) Term. The stated term of the partnership shall be as stated in the prospectus. However, such entity may be terminated under such earlier circumstances as may be specified in the Partnership prospectus.

(4) General Partner. The following requirements apply:

(i) The general partner of a partnership must be an entity having substantial capital and surplus and the experience and facilities for handling partnership business. In cases where, for any reason, an individual has been appointed as general partner, a qualified entity must also be appointed as general partner.

(ii) No change is to be made in the general partner of a listed issue without prior notice to and approval of the primary listing exchange.

(5) Voting. Voting rights shall be as set forth in the applicable partnership prospectus.

(f) *Limitation of Liability*. Neither the Exchange nor any agent of the Exchange shall have any liability for damages, claims, losses or expenses caused by any errors, omissions, or delays in calculating or disseminating any underlying asset or commodity value, the current value of the underlying asset or commodity if required to be deposited to the partnership in connection with issuance of Partnership Units, net asset value, or other information relating to the purchase, redemption or trading of Partnership Units, resulting from any negligent act or omission by the Exchange or any agent of the Exchange, or any act, condition or cause beyond the reasonable control of the Exchange or its agent, including, but not limited to, an act of God, fire, flood, extraordinary weather conditions, war, insurrection, riot, strike, accident, action of government, communications or power failure, equipment or software malfunction, or any error, omission or delay in the reports of transactions in an underlying asset or commodity.

(g) The Exchange will file separate proposals under Section 19(b) of the Securities Exchange Act of 1934 before listing and trading separate and distinct Partnership Units designated on different underlying investments, commodities and/or assets.

***Supplementary Material to Rule 2127***

.01 The Exchange requires Equity EAMs to provide to all purchasers of newly issued Partnership Units a prospectus for the series of Partnership Units.

[Adopted September 28, 2006 (SR-ISE-2006-48).]

**Rule 2128. Clearly Erroneous Trades**

(a) *Market Control.* Persons designated in the Exchange's market control center ("Market Control") shall, pursuant to the procedures set forth below, have the authority to review any transaction effected on the ISE Stock Exchange that is claimed to be clearly erroneous arising out of the use or operation of the ISE Stock Exchange. A member of the regulatory staff shall advise and participate in all steps of Market Control's review of the transaction.

(b) *Clearly Erroneous Procedures.* Any Equity EAM who seeks to have one or more transactions reviewed as clearly erroneous shall submit the matter to Market Control within 30 minutes of the transaction. Once a complaint has been received, the complainant shall have up to 30 minutes, or such longer period as Market Control may specify, to submit any supporting written information concerning the complaint necessary for a review of the transaction. Such supporting information must include the approximate time of the transaction(s), security symbol, number of shares, price(s), and the reason review is being sought. Market Control then shall provide the other Equity EAM(s) that were part of the trade up to thirty minutes after being notified of the complaint, or such longer period as specified by Market Control, to submit any supporting written information concerning the complaint necessary for a review of the transaction. Any Equity EAM that is a party to a disputed trade may request the written information provided by the other Equity EAMs pursuant to this paragraph (b). Once an Equity EAM communicates that it does not intend to submit any further information concerning a complaint, the Equity EAM may not thereafter provide additional information unless requested to do so by Market Control. If the Equity EAMs involved in a disputed trade indicate that they have no further information to provide concerning the complaint before their 30-minute information submission periods have elapsed, then the matter may be immediately considered by Market Control. Equity EAMs or persons associated with Equity EAMs involved in the transaction shall provide Market Control with any information requested in order to resolve the matter on a timely basis notwithstanding the time parameters set forth above. Once an Equity EAM has applied to Market Control for a ruling, Market Control shall review the transaction, with the advice and participation of a member of the regulatory staff, and make a ruling unless



all Equity EAMs on the transaction agree to withdraw the application for review prior to the time that Market Control makes the ruling.

(c) *Review of Trades.* In reviewing a trade that is claimed to be clearly erroneous, Market Control shall review the transaction with a view toward maintaining a fair and orderly market and the protection of investors and the public interest. A member of the regulatory staff shall advise and participate in all steps of Market Control's review of the transaction. Based upon this review, Market Control shall decline to "break" a disputed transaction if Market Control believes that the transaction under dispute is not clearly erroneous. However, if Market Control determines the transaction in dispute is clearly erroneous, Market Control shall declare that the transaction is null and void or modify one or more terms of the transaction. When adjusting the terms of a transaction, Market Control shall seek to adjust the price and/or size of the transaction to achieve an equitable rectification of the error that would place the parties to a transaction in the same position, or as close as possible to the same position, as they would have been in had the error not occurred. For the purposes of this Rule, the terms of a transaction are clearly erroneous when there is an obvious error in any term, such as price, number of shares or other unit of trading, or identification of the security. An Equity EAM may seek review of Market Control's ruling pursuant to Paragraph (e) below.

(d) *Disruption, Malfunction or Extraordinary Circumstances.* In the event of (1) a disruption or malfunction in the use or operation of the ISE Stock Exchange or (2) extraordinary market conditions or other circumstances in which the nullification or modification of transactions executed on the ISE Stock Exchange may be necessary for the maintenance of a fair and orderly market or the protection of investors and the public interest, Market Control on its own motion may review any transactions arising out of or reported through the ISE Stock Exchange. A member of the regulatory staff shall advise and participate in all steps of Market Control's review of the transaction. Market Control acting pursuant to this paragraph may declare any ISE Stock Exchange transaction null and void or modify the terms of any such transactions if Market Control determines that (1) the transaction is clearly erroneous, or (2) such actions are necessary for the maintenance of a fair and orderly market or the protection of investors and the public interest; provided, however, Market Control shall take action pursuant to this subsection within 30 minutes of detection of the transaction, except in the event of extraordinary circumstances, in which Market Control must take action no later than 3:00 p.m., Eastern Time, on the next trading day following the date of the trades at issue. An Equity EAM may seek review of Market Control's ruling pursuant to Paragraph (e) below.

(e) *Clearly Erroneous Trade Panel.*

(1) Composition. The Exchange shall designate at least ten (10) Equity EAM representatives to be called upon to serve on Clearly Erroneous Trade Panels as needed. A Clearly Erroneous Trade Panel will be comprised of representatives from three (3) Equity EAMs that were not involved in any of the transactions under review, nor related to a party to the trades in question. To the extent reasonably possible, the Exchange shall call upon the designated

representatives to participate on a Clearly Erroneous Trade Panel on an equally frequent basis.

(2) Scope of Panel's Review. If a party affected by a determination made under this Rule so requests within the time permitted in (3) below, the Clearly Erroneous Trade Panel will review decisions made by Market Control under this Rule. A party may also request that the Clearly Erroneous Trade Panel provide relief as provided in this Rule in cases where the party failed to provide the notification required in paragraph (b) and Market Control declined to grant an extension, but unusual circumstances must merit special consideration.

(3) Procedure for Requesting Review. 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. Once a written appeal has been received, the Exchange will notify the counterparty to the trade that is the subject of the appeal, and both parties shall be permitted to submit any additional supporting written information until the time the appeal is considered by the Clearly Erroneous Trade Panel. Either party to a disputed trade may request the written information provided by the other party during the appeal process. An appeal to the Clearly Erroneous Trade Panel shall not operate as a stay of the determination being appealed, and the scope of the appeal shall be limited to trades to which the person making the appeal is a party. Once a party has appealed a determination to the Clearly Erroneous Trade Panel, the panel shall review the matter and render a decision unless (i) both parties to the transaction agree to withdraw the appeal prior to the time the Clearly Erroneous Trade Panel renders a decision or (ii) the party filing the appeal withdraws it prior to the notification of the counterparty under this paragraph.

(4) Panel Decision. The Clearly Erroneous Trade 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. The Clearly Erroneous Trade Panel may overturn or modify an action taken by Market Control under this Rule upon agreement by a majority of the Panel representatives based on the standards of maintaining a fair and orderly market, the protection of investors and the public interest. All determinations by the Clearly Erroneous Trade Panel shall constitute final Exchange action on the matter at issue.

### ***Supplementary Material to Rule 2128***

.01 The Exchange shall report all trades corrected pursuant to this rule to the Consolidated Tape Association or the Joint Self-Regulatory Organization Plan Governing The Collection, Consolidation And Dissemination Of Quotation And Transaction Information For Nasdaq-Listed Securities Traded On Exchanges On An

Unlisted Trading Privilege Basis, as the case may be as soon as practical following such correction.

.02 All determinations made by the Exchange, Market Control or a Clearly Erroneous Trade 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 September 28, 2006 (SR-ISE-2006-48).]

**Rule 2129. MidPoint Match**

The MidPoint Match (“MPM”) is a process by which Members can seek an execution price that is at the midpoint of the NBBO.

(a) *Opening Process.* All eligible orders will participate in the opening process, as set forth in Rule 2106.

(b) *Order Entry.* All MPM orders are unpriced orders to buy or to sell an Equity Security at the midpoint of the NBBO. An MPM order may be entered with a boundary price, and the System will not execute such order outside of the boundary price. Any boundary price must be in whole penny increments.

(c) *Types of Orders.* MPM orders may be Day Orders, Fill-or-Kill, or Immediate-or-Cancel. An MPM day order can be marked all-or-none (“AON”), which means that the order is to be executed in its entirety or not at all.

(d) *Dissemination of Order Information.*

(1) Standard Orders. Unless specifically authorized by the entering Equity EAM, the System will not disseminate any information regarding an order pending on the ISE Stock Exchange’s MPM. Orders where no information is disseminated are “Standard Orders.” An FOK or IOC Standard Order that is not executed immediately upon receipt will be canceled.

(2) Solicitations of Interest. If the entering Equity EAM so authorizes, the System will disseminate an indication as to the name of the Equity Security in which the order is entered. Such orders are “Solicitations of Interest” and an Equity EAM must enter a Solicitation of Interest with a minimum size of at least 2000 shares. An Equity EAM entering a Solicitation of Interest may not cancel the order for 5 seconds. In addition, if a Solicitation of Interest is not executed within 10 seconds, the System shall convert the Solicitation of Interest to a Standard Order; however, in establishing time priority of orders, the System will consider the time of entry of such Standard Order as the time of entry of the original Solicitation of Interest. An IOC Solicitation of Interest that is not executed within the 5-second no-cancellation period will be automatically canceled.

(e) *Order Specifications.*

(1) All orders that are not immediately executed will be Day Orders.

(2) Solicitation of Interests with a boundary price that is not then currently-executable are not accepted.

(3) FOK or AON Orders may be Standard Orders only, not Solicitations of Interest.

(f) *Order Execution.* The System will monitor for buy and sell orders in a security, and, when identifying a match, will execute a trade at the prevailing NBBO midpoint. MPM Orders may be executed and reported in increments as small as one-half of the Minimum Price Variation.

(1) Solicitations of Interest have priority on a first-in, first-served basis over previously-entered Standard Orders on the same side of the market for 10 seconds upon receipt.

(2) If there are no Solicitations of Interest, or once all Solicitations of Interest are executed, the System will match Standard Orders on a first-in, first-served basis.

(3) Notwithstanding subparagraphs (1) and (2) above, the System will execute orders outside of time and order type priority to the extent such treatment would maximize possible executions at a given price, but only after first executing all possible orders within priority until reaching an AON order that cannot be filled in its entirety in the normal priority.

(4) The System will not execute a trade at a price inferior to the NBBO. The System also will not effect any transactions when the market for a security is "crossed," that is, when the best national bid in the security is greater than the best national offer in that security. If the market for a security is "locked," that is, the best national bid in the security equals the best national offer in that security, the System will execute the trade at the price of the locked quotation. In addition, the System will not effect any transaction when the bid price for a security is less than \$1 or when either the best national bid price or the best national offer price are not in full \$.01 increments.

(5) An order that is canceled in part will retain its original priority.

(g) *Short Sales.* Sell short Solicitations of Interests are not permitted. No Equity EAM shall, for its own account or the account of any other person, effect any short sale Solicitation of Interest.

[Adopted September 28, 2006 (SR-ISE-2006-48).]

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Appendix A

Rule

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