

SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

For complete Form 19b-4 instructions please refer to the EFFS website.

Form 19b-4 Information

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The self-regulatory organization must provide all required information, presented in a clear and comprehensible manner, to enable the public to provide meaningful comment on the proposal and for the Commission to determine whether the proposal is consistent with the Act and applicable rules and regulations under the Act.

Exhibit 1 - Notice of Proposed Rule Change

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The Notice section of this Form 19b-4 must comply with the guidelines for publication in the Federal Register as well as any requirements for electronic filing as published by the Commission (if applicable). The Office of the Federal Register (OFR) offers guidance on Federal Register publication requirements in the Federal Register Document Drafting Handbook, October 1998 Revision. For example, all references to the federal securities laws must include the corresponding cite to the United States Code in a footnote. All references to SEC rules must include the corresponding cite to the Code of Federal Regulations in a footnote. All references to Securities Exchange Act Releases must include the release number, release date, Federal Register cite, Federal Register date, and corresponding file number (e.g., SR-[SRO]-xx-xx). A material failure to comply with these guidelines will result in the proposed rule change being deemed not properly filed. See also Rule 0-3 under the Act (17 CFR 240.0-3)

Exhibit 2 - Notices, Written Comments, Transcripts, Other Communications

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Exhibit Sent As Paper Document

Copies of notices, written comments, transcripts, other communications. If such documents cannot be filed electronically in accordance with Instruction F, they shall be filed in accordance with Instruction G.

Exhibit 3 - Form, Report, or Questionnaire

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Exhibit Sent As Paper Document

Copies of any form, report, or questionnaire that the self-regulatory organization proposes to use to help implement or operate the proposed rule change, or that is referred to by the proposed rule change.

Exhibit 4 - Marked Copies

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The full text shall be marked, in any convenient manner, to indicate additions to and deletions from the immediately preceding filing. The purpose of Exhibit 4 is to permit the staff to identify immediately the changes made from the text of the rule with which it has been working.

Exhibit 5 - Proposed Rule Text

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The self-regulatory organization may choose to attach as Exhibit 5 proposed changes to rule text in place of providing it in Item I and which may otherwise be more easily readable if provided separately from Form 19b-4. Exhibit 5 shall be considered part of the proposed rule change.

Partial Amendment

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If the self-regulatory organization is amending only part of the text of a lengthy proposed rule change, it may, with the Commission's permission, file only those portions of the text of the proposed rule change in which changes are being made if the filing (i.e. partial amendment) is clearly understandable on its face. Such partial amendment shall be clearly identified and marked to show deletions and additions.

Form 19b-4 Information

1. Text of Proposed Rule Change

The Chicago Stock Exchange, Incorporated (the “CHX” or the “Exchange”), pursuant to Rule 19b-4 of the Securities Exchange Act of 1934 (the “Act”), proposes to adopt, amend and delete a number of rules relating to the Exchange’s enforcement and disciplinary processes. These changes include (1) modifying the procedures by which formal disciplinary actions and certain other matters that require a hearing are instituted by removing the Chief Executive Officer (“CEO”) from the authorization process and substituting the Exchange’s Chief Regulatory Officer; (2) adopting a rule establishing the criteria by which Hearing Officers are selected and providing a procedure by which a Respondent may move to replace a Hearing Officer based upon a showing of bias or conflict of interest; (3) deleting the requirement that the CEO approve, modify or reject the findings of a Hearing Officer in a formal disciplinary actions and certain other matters that require a hearing; (4) modifying the existing rules relating to appeals of Hearing Officer decisions to permit the Exchange to appeal an adverse decision; (5) amending the Exchange’s rules relating to the non-payment of fines to provide for additional sanctions; and (6) making various language and organizational changes.

The text of the proposed rule changes are attached as Exhibit 5.

2. Procedures of Self-Regulatory Organization

The proposed rule changes were approved by the Executive Committee of the Exchange’s Board of Governors on October 21, 2004. No further approval is required.

3. Self-Regulatory Organization’s Statement on the Purpose of, and Statutory Basis for, the Proposed Rule Change

(a) Overview

In light of the Commission’s recent guidance that self-regulatory organizations should ensure that its “regulatory function is strong, vigorous, and sufficiently independent and insulated from improper influence from management or any regulated entity,”¹ the CHX has reviewed its existing rules relating to its

¹ *NYSE Rulemaking: Rule Change Relating to the Amendment and Restatement of Order Approving Proposed the Constitution of the Exchange to Reform the Governance and Management Architecture of the Exchange* (hereinafter referred to as “NYSE

disciplinary processes.² The Exchange is proposing a number of modifications, additions and deletions to the rules governing Exchange disciplinary proceedings. In general, these changes serve to eliminate any appearance of a conflict of interest by removing the Chief Executive Officer (“CEO”) from the authorization and determination of disciplinary charges. The Exchange also proposes to enhance the ability of its regulatory staff to effectively prosecute disciplinary actions by endowing the Exchange with the right to appeal adverse decisions and providing for additional sanctions for the failure of an Exchange Participant to promptly pay a disciplinary fine. The Exchange is also proposing various language and organizational changes to the disciplinary rules as well.

Authorization of Formal Disciplinary Actions

The Exchange’s current rules require that the CEO authorize the institution of all major disciplinary actions.³ The Exchange believes that this requirement is outdated and somewhat inconsistent with recent Commission direction that self-regulatory organizations must possess “sufficient independence in the regulatory process to prevail against undue interference or influence from the persons or entities being regulated.” The CHX is of the belief, confirmed by the Independent Consultant appointed by the terms of the Order referenced in note 4, *supra*, that there is no evidence of any actual conflict of interest having influenced the decision of the Exchange’s CEO regarding any disciplinary matters.

Governance Order”), Release No. 34-48946, File No. SR-NYSE-2003-34 (December 17, 2003).

² Our review is also being conducted pursuant to the requirements of the Commission’s Order Instituting Proceedings entered against the Exchange and dated September 30, 2003, AP File No. 3-11282 (the “Order”). Certain aspects of this filing are also based upon the recommendations of the Independent Consultant appointed by the terms of the Order.

³ These proceeding include: Art. VII, Rule 2 (Emergency Suspensions); Art. XI, Rule 8 (Operational capability); Art. XII, Rule 1(b) (Disciplinary Actions); Art. XII, Rule 2 (Summary Procedure); Art. XXVIII, Rule 4, Interpretation .01 (Removal of Securities); Art. XXX, Rule 8 (Termination of Specialist Registration); Art. XXXI, Rule 14 (Termination of Odd-Lot Dealer Registration); and Art. XXXIV, Rule 15 (Suspension of Registered Market Makers). Authorization by the CEO is not required to institute an action pursuant to the Exchange’s Minor Rule Violation Plan. Such actions are authorized by a Minor Rule Violation panel, which is appointed by the CEO. Art. XII, Rule 9. The Exchange proposes to delete the procedures of Articles XXX, XXXI and XXXIV regarding *ex parte* suspension of Participants since the process is both outdated and duplicative of the Emergency Suspension process detailed in Rule 2 of Article VII, which is being updated in this filing. Moreover, the deleted provisions permit suspensions for “unethical conduct,” which is an overly subjective criteria for such a severe sanction.

Nevertheless, the Exchange proposes to remove the CEO from such decisionmaking processes to address any negative public perception of a possible conflict of interest. In place of the current structure, we propose that disciplinary and related proceedings against Exchange Participants be authorized by the Exchange's Chief Regulatory Officer ("CRO"). In the case of proceedings based upon a Participant's failure to maintain operational capability under Article XI, Rule 8, the Exchange has determined to permit the institution of such proceedings at the direction of either the CEO or the CRO. We believe that dual authority is appropriate in such proceedings since, unlike traditional disciplinary matters, they can involve a mixture of business and regulatory concerns.

Vesting the authority to initiate disciplinary actions in the Exchange's CRO serves to bolster the apparent and actual independence of the Exchange's regulatory processes. The CRO's primary mission is to ensure that the Exchange has an effective regulatory program reasonably designed to ensure compliance with the Exchange's rules by its Participants. The Exchange acknowledges that the CRO reports to the CEO and therefore could conceivably be influenced by the latter's views on a proposed disciplinary matter. However, the CRO is required to appear before and report on the Exchange's regulatory programs not less than quarterly to the Exchange's Regulatory Oversight Committee, a committee of the Board of Directors predominately composed of independent directors, and which is charged with oversight of the Exchange's regulatory function.⁴ This review by the Regulatory Oversight Committee serves as a reasonable mechanism to prevent any conflict of interest from interfering with the Exchange's regulatory role. Moreover, the Commission has acknowledged that there is no "one size fits all" model for the discharging an SRO's oversight function.⁵ The Exchange believes that this proposed structure is appropriate given the scope and nature of its regulatory unit and mission.

In addition, the Exchange proposes to delete paragraph (b) of Art. XII, Rule 2 to eliminate the "summary hearing" process noted therein. To the extent that action under Art. XII, Rule 2(a) is not warranted under the circumstances involved, the Chief Regulatory Officer may refer the matter for a formal disciplinary action under Art. XII, Rule 1. Thus, the hearing procedure noted in Art. XII, Rule 2(b) is redundant and unnecessary. The CHX also proposes to delete the suspension and termination rules as to specialists, odd-lot dealers, and market makers in Articles XXX, XXXI, and XXXIV as obsolete and redundant of the Emergency Suspension provisions under Article VII, Rule 2. Finally, the Exchange also proposes to amend the process under Art. XII, Rule 2(c) to provide for the appointment of a Hearing Officer to oversee proceedings to suspend or bar a Participant or associated person based upon the imposition of a comparable

⁴ The composition requirements and responsibilities of the Exchange's Regulatory Oversight Committee were set forth in the Commission's September 20, 2003 Order.

⁵ See, *NYSE Governance Order*, note 96 and accompanying text.

sanction by another self-regulatory organization.⁶ The current version of the rule provides for the CEO to conduct that hearing personally.

Criteria for the Selection of Hearing Officers

The Exchange seeks to amend its disciplinary rules to provide for criteria to be followed in the selection and appointment of Hearing Officers in disciplinary proceedings. Currently, the rules of the Exchange provide only that the CEO shall select a Hearing Officer.⁷ While the Exchange continues to believe that it is appropriate for the CEO to select the Hearing Officer, we would like to create requirements of professional competence and experience and the absence of bias or any conflict of interest that the CEO would be required to consider in selecting a Hearing Officer. In fairness to the respondent, the Exchange also proposes to create a process by which the respondent could object to a particular Hearing Officer on the grounds of bias or conflict of interest.

Initial Decision by Hearing Officers

CHX rules require that the proposed decision of a Hearing Officer be reviewed by the CEO of the Exchange.⁸ The CEO may take a number of different actions with respect to the proposed judgment. The CEO may approve or modify the proposed decision, remand the matter for further consideration, or even conduct additional proceedings himself. Our review of comparable provisions of the rules of other self-regulatory organizations has not revealed a similar requirement relating to disciplinary proceedings. In order to eliminate any appearance of a conflict of interest, the Exchange proposes to eliminate the requirement that the CEO review the proposed decision of the Hearing Officer and instead provide that the Hearing Officer issue a final, albeit appealable, decision.

Appeal of Disciplinary Proceedings

Under current CHX rules, disciplinary orders may only be appealed by the respondent to the Judiciary Committee of the Exchange.⁹ The rules of most other Exchanges and self-regulatory organizations permit appeals to be brought by either party. The Exchange believes that there may be instances when the Market Regulation staff that prosecuted a particular matter may wish to appeal an adverse decision. For example, where the staff believes that a Hearing Officer applied an

⁶ Rule 2(c) was renumbered from Rule 2(d) to reflect the deletion of the provisions of Rule 2(b), as discussed in the accompanying text.

⁷ Art. XII, Rule 5(a).

⁸ Art. XII, Rule 5(b).

⁹ Art. XII, Rule 6.

incorrect standard of law in making his or her decision, an appeal may be appropriate and desirable. Providing the staff of the Exchange with the authority to initiate an appellate review would put the staff in the same position as the respondent, and therefore appears to increase the fundamental fairness of the disciplinary process.

In addition, the Exchange proposes to streamline the appellate review process for disciplinary actions. Currently, appeals are heard first by a Judiciary Committee, then by the Executive Committee and finally, on a discretionary basis, by the Board of Directors. In place of this three-tiered structure, we recommend to eliminate appellate review by the Executive Committee. Appeals would be heard by a Judiciary Committee and, on a discretionary basis, by the full Board of Directors. The removal of an unnecessary layer of review should reduce the time required to reach a final judgment, thus contributing to the fair and effective enforcement of the Exchange's rules.

Failure to Promptly Pay Fines

The Exchange has noticed a recent trend that some MRVP fines are not being paid in a timely manner. Under existing Exchange rules, Participants who fail to pay fines owing to the Exchange within 60 days of the date such amount became payable may be suspended, after due notice, until such payment is made.¹⁰ While a suspension rule may be an effective deterrent in most circumstances, the Exchange would like the flexibility to assess additional fines or other sanctions, either in lieu of or in addition to a suspension, as added inducement to avoiding late payment. Moreover, the Exchange would like to explicitly mention associated persons of Participants in the text of the rule.¹¹

Other Changes

The Exchange has made a number of other miscellaneous changes to its disciplinary rules in an effort to modernize its processes. Some of these modifications involve terminology changes, *e.g.*, substituting "respondent" for "accused" or "hearing" for "trial." Other alterations provide for clear time frames in which various events must occur, *e.g.*, responding to charges, filing of motions, issuing of orders. Limited rights to prehearing discovery were created. The Exchange proposes to add provisions clarifying the requirement for settlement agreements in disciplinary proceedings. Finally, the Exchange proposes to

¹⁰ Art. XIV, Rule 13. Suspension of a Participant for non-payment operates as a termination of the Participant's registration with the Exchange. Art. XIV, Rule 12.

¹¹ The Exchange believes that it already has the authority to suspend such persons for nonpayment of fines pursuant to Art. XII, Rule 8 (Disciplinary Jurisdiction), but proposes to amend the language of Rule 13 of Article XIV to provide additional clarity to its Participants and their associated persons.

modify the Minor Rule Violation Plan by adding a censure authority and including certain violations as eligible for disposition under the Plan.¹²

(b) Approval of the rule changes proposed in this submission is consistent with the requirements of the Act and the rules and regulations thereunder that are applicable to a national securities exchange, and, in particular, with the requirements of Section 6(b). In particular, the proposed changes are consistent with Section 6(b)(5) of the Act, because they would promote just and equitable principles of trade, remove impediments to, and perfect the mechanism of, a free and open market and a national market system, and, in general, protect investors and the public interest.

4. **Self-Regulatory Organization's Statement of Burden on Competition**

The Exchange believes that no burden will be placed on competition as a result of the proposed rule changes.

5. **Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others**

No written comments were solicited or received.

6. **Extension of the Time Period for Commission Action**

The Exchange does not consent to an extension of the time period specified in Section 19(b)(2) of the Act.

7. **Basis for Summary Effectiveness Pursuant to Section 19(b)(3) or for Accelerated Effectiveness Pursuant to Section 19(b)(2)**

Not applicable.

8. **Proposed Rule Change Based on Rule of Another Self-Regulatory Organization or of the Commission**

Not applicable.

¹² The creation of a censure authority within the Plan and the addition of violations were both recommended by the recent Independent Consultant review.

9. Exhibits

Exhibit 1: The Completed Notice of the Proposed Rule Change for publication in the Federal Register.

Exhibits 2-4: Not applicable.

Exhibit 5: The text of the Proposed Rule Changes.

Exhibit 1

SECURITIES AND EXCHANGE COMMISSION

**(Release No. 34-____; File No. SR-CHX-2005-06)
SELF-REGULATORY ORGANIZATIONS**

Proposed Rule Change By The Chicago Stock Exchange, Inc. Relating to the Exchange's Disciplinary Process

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on March 7, 2005, the Chicago Stock Exchange, Incorporated ("CHX" or "Exchange") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the CHX. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Chicago Stock Exchange, Incorporated (the "CHX" or the "Exchange"), pursuant to Rule 19b-4 of the Securities Exchange Act of 1934 (as amended, the "Act"), proposes to adopt and amend a number of rules relating to the Exchange's enforcement and disciplinary processes. These changes include (1) modifying the procedures by which formal disciplinary actions and certain other matters that require a hearing are instituted by removing the Chief Executive Officer ("CEO") from the authorization process and substituting the Exchange's Chief Regulatory Officer or his or her designee; (2) adopting a rule establishing the criteria by which Hearing Officers are selected and providing a procedure by which a Respondent may move to replace a Hearing Officer

based upon a showing of bias or conflict of interest; (3) deleting the requirement that the CEO approve, modify or reject the findings of a Hearing Officer in a formal disciplinary actions and certain other matters that require a hearing; (4) modifying the existing rules relating to appeals of Hearing Officer decisions to permit the Exchange to appeal an adverse decision; (5) amending the Exchange's rules relating to the non-payment of fines to provide for additional sanctions; and (6) making various language and organizational changes.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the CHX included statements concerning the purpose of and basis for the proposed rule changes and discussed any comments it received regarding the proposal. The text of these statements may be examined at the places specified in Item IV below. The CHX has prepared summaries, set forth in sections A, B and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Changes

1. Purpose

Overview

In light of the Commission's recent guidance that self-regulatory organizations should ensure that its "regulatory function is strong, vigorous, and sufficiently independent and insulated from improper influence from management or any regulated entity,"¹ the CHX has reviewed its existing rules relating to its disciplinary processes.²

¹ *NYSE Rulemaking: Rule Change Relating to the Amendment and Restatement of Order Approving Proposed the Constitution of the Exchange to Reform the Governance and Management Architecture of the Exchange* (hereinafter referred to as "NYSE

The Exchange is proposing a number of modifications, additions and deletions to the rules governing Exchange disciplinary proceedings. In general, these changes serve to eliminate any appearance of a conflict of interest by removing the Chief Executive Officer (“CEO”) as much as possible from the disciplinary process. The Exchange also proposes to enhance the ability of its regulatory staff to effectively prosecute disciplinary actions by endowing the Exchange with the right to appeal adverse decisions and providing for additional sanctions for the failure of an Exchange Participant to promptly pay a disciplinary fine. The Exchange is also proposing various language and organizational changes to the disciplinary rules as well.

Authorization of Formal Disciplinary Actions

The Exchange’s current rules require that the CEO authorize the institution of all major disciplinary actions.³ The Exchange believes that this requirement is outdated and

Governance Order”), Release No. 34-48946, File No. SR-NYSE-2003-34 (December 17, 2003).

² Our review is also being conducted pursuant to the requirements of the Commission’s Order Instituting Proceedings entered against the Exchange and dated September 30, 2003, AP File No. 3-11282 (the “Order”). Certain aspects of this filing are also based upon the recommendations of the Independent Consultant appointed by the terms of the Order.

³ These proceeding include: Art. VII, Rule 2 (Emergency Suspensions); Art. XI, Rule 8 (Operational capability); Art. XII, Rule 1(b) (Disciplinary Actions); Art. XII, Rule 2 (Summary Procedure); Art. XXVIII, Rule 4, Interpretation .01 (Removal of Securities); Art. XXX, Rule 8 (Termination of Specialist Registration); Art. XXXI, Rule 14 (Termination of Odd-Lot Dealer Registration); and Art. XXXIV, Rule 15 (Suspension of Registered Market Makers). Authorization by the CEO is not required to institute an action pursuant to the Exchange’s Minor Rule Violation Plan. Such actions are authorized by a Minor Rule Violation panel, which is appointed by the CEO. Art. XII, Rule 9. The Exchange proposes to delete the procedures of Articles XXX, XXXI and XXXIV regarding *ex parte* suspension of Participants since the process is both outdated and duplicative of the Emergency Suspension process detailed in Rule 2 of Article VII, which is being updated in this filing. Moreover, the deleted provisions permit

somewhat inconsistent with recent Commission direction that self-regulatory organizations must possess “sufficient independence in the regulatory process to prevail against undue interference or influence from the persons or entities being regulated.” The CHX is of the belief, confirmed by the Independent Consultant appointed by the terms of the Order referenced in note 4, *supra*, that there is no evidence of any actual conflict of interest having influenced the decision of the Exchange’s CEO regarding any disciplinary matters. Nevertheless, the Exchange proposes to remove the CEO from such decisionmaking processes to address any negative public perception of a possible conflict of interest. In place of the current structure, we propose that disciplinary and related proceedings against Exchange Participants be authorized by the Exchange’s Chief Regulatory Officer (“CRO”). In the case of proceedings based upon a Participant’s failure to maintain operational capability under Article XI, Rule 8, the Exchange has determined to permit the institution of such proceedings at the direction of either the CEO or the CRO. We believe that dual authority is appropriate in such proceedings since, unlike traditional disciplinary matters, they can involve a mixture of business and regulatory concerns.

Vesting the authority to initiate disciplinary actions in the Exchange’s CRO serves to bolster the apparent and actual independence of the Exchange’s regulatory processes. The CRO’s primary mission is to ensure that the Exchange has an effective regulatory program reasonably designed to ensure compliance with the Exchange’s rules by its Participants. The Exchange acknowledges that the CRO reports to the CEO and

suspensions for “unethical conduct,” which is an overly subjective criteria for such a severe sanction.

therefore could conceivably be influenced by the latter's views on a proposed disciplinary matter. However, the CRO is required to appear before and report on the Exchange's regulatory programs not less than quarterly to the Exchange's Regulatory Oversight Committee, a committee of the Board of Directors predominately composed of independent directors, and which is charged with oversight of the Exchange's regulatory function.⁴ This review by the Regulatory Oversight Committee serves as a reasonable mechanism to prevent any conflict of interest from interfering with the Exchange's regulatory role. Moreover, the Commission has acknowledged that there is no "one size fits all" model for the discharging an SRO's oversight function.⁵ The Exchange believes that this proposed structure is appropriate given the scope and nature of its regulatory unit and mission.

In addition, the Exchange proposes to delete paragraph (b) of Art. XII, Rule 2 to eliminate the "summary hearing" process noted therein. To the extent that action under Art. XII, Rule 2(a) is not warranted under the circumstances involved, the Chief Regulatory Officer may refer the matter for a formal disciplinary action under Art. XII, Rule 1. Thus, the hearing procedure noted in Art. XII, Rule 2(b) is redundant and unnecessary. The CHX also proposes to delete the suspension and termination rules as to specialists, odd-lot dealers, and market makers in Articles XXX, XXXI, and XXXIV as obsolete and redundant of the Emergency Suspension provisions under Article VII, Rule 2. Finally, the Exchange also proposes to amend the process under Art. XII, Rule 2(c) to provide for the appointment of a Hearing Officer to oversee proceedings to suspend or

⁴ The composition requirements and responsibilities of the Exchange's Regulatory Oversight Committee were set forth in the Commission's September 20, 2003 Order.

⁵ See, *NYSE Governance Order*, note 96 and accompanying text.

bar a Participant or associated person based upon the imposition of a comparable sanction by another self-regulatory organization.⁶ The current version of the rule provides for the CEO to conduct that hearing personally.

Criteria for the Selection of Hearing Officers

The Exchange seeks to amend its disciplinary rules to provide for criteria to be followed in the selection and appointment of Hearing Officers in disciplinary proceedings. Currently, the rules of the Exchange provide only that the CEO shall select a Hearing Officer.⁷ While the Exchange continues to believe that it is appropriate for the CEO to select the Hearing Officer, we would like to create requirements of professional competence and experience and the absence of bias or any conflict of interest that the CEO would be required to consider in selecting a Hearing Officer. In fairness to the respondent, the Exchange also proposes to create a process by which the respondent could object to a particular Hearing Officer on the grounds of bias or conflict of interest.

Initial Decision by Hearing Officers

CHX rules require that the proposed decision of a Hearing Officer be reviewed by the CEO of the Exchange.⁸ The CEO may take a number of different actions with respect to the proposed judgment. The CEO may approve or modify the proposed decision, remand the matter for further consideration, or even conduct additional proceedings himself. Our review of comparable provisions of the rules of other self-regulatory organizations has not revealed a similar requirement relating to disciplinary proceedings.

⁶ Rule 2(c) was renumbered from Rule 2(d) to reflect the deletion of the provisions of Rule 2(b), as discussed in the accompanying text.

⁷ Art. XII, Rule 5(a).

⁸ Art. XII, Rule 5(b).

In order to eliminate any appearance of a conflict of interest, the Exchange proposes to eliminate the requirement that the CEO review the proposed decision of the Hearing Officer and instead provide that the Hearing Officer issue a final, albeit appealable, decision.

Appeal of Disciplinary Proceedings

Under current CHX rules, disciplinary orders may only be appealed by the respondent to the Judiciary Committee of the Exchange.⁹ The rules of most other Exchanges and self-regulatory organizations permit appeals to be brought by either party. The Exchange believes that there may be instances when the Market Regulation staff that prosecuted a particular matter may wish to appeal an adverse decision. For example, where the staff believes that a Hearing Officer applied an incorrect standard of law in making his or her decision, an appeal may be appropriate and desirable. Providing the staff of the Exchange with the authority to initiate an appellate review would put the staff in the same position as the respondent, and therefore appears to increase the fundamental fairness of the disciplinary process.

In addition, the Exchange proposes to streamline the appellate review process for disciplinary actions. Currently, appeals are heard first by a Judiciary Committee, then by the Executive Committee and finally, on a discretionary basis, by the Board of Directors. In place of this three-tiered structure, we recommend to eliminate appellate review by the Executive Committee. Appeals would be heard by a Judiciary Committee and, on a discretionary basis, by the full Board of Directors. The removal of an unnecessary layer

⁹ Art. XII, Rule 6.

of review should reduce the time required to reach a final judgment, thus contributing to the fair and effective enforcement of the Exchange's rules.

Failure to Promptly Pay Fines

The Exchange has noticed a recent trend that some MRVP fines are not being paid in a timely manner. Under existing Exchange rules, the Trading Permits of Participants who fail to pay fines owing to the Exchange within 60 days of the date such amount became payable may be suspended, after due notice, until such payment is made.¹⁰ While a suspension rule may be an effective deterrent in most circumstances, the Exchange would like the flexibility to assess additional fines or other sanctions, either in lieu of or in addition to a suspension, as added inducement to avoiding late payment. Moreover, the Exchange would like to explicitly mention associated persons of Participants in the text of the rule.¹¹

Other Changes

The Exchange has made a number of other miscellaneous changes to its disciplinary rules in an effort to modernize its processes. Some of these modifications involve terminology changes, *e.g.*, substituting "respondent" for "accused" or "hearing" for "trial." Other alterations provide for clear time frames in which various events must occur, *e.g.*, responding to charges, filing of motions, issuing of orders. Limited rights to prehearing discovery were created. The Exchange proposes to add provisions clarifying

¹⁰ Art. XIV, Rule 13. Suspension of a Participant for non-payment operates as a termination of the Participant's registration with the Exchange. Art. XIV, Rule 12.

¹¹ The Exchange believes that it already has the authority to suspend such persons for nonpayment of fines pursuant to Art. XII, Rule 8 (Disciplinary Jurisdiction), but proposes to amend the language of Rule 13 of Article XIV to provide additional clarity to its Participants and their associated persons.

the requirement for settlement agreements in disciplinary proceedings. Finally, the Exchange proposes to modify the Minor Rule Violation Plan by adding a censure authority and including certain violations as eligible for disposition under the Plan.¹²

2. Statutory Basis

The CHX believes the proposal is consistent with the requirements of the Act and the rules and regulations thereunder that are applicable to a national securities exchange, and, in particular, with the requirements of Section 6(b).¹³ The CHX believes the proposal is consistent with Section 6(b)(5) of the Act¹⁴ in that it is designed to promote just and equitable principles of trade, to remove impediments, and to perfect the mechanism of, a free and open market and a national market system, and, in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement of Burden on Competition

The Exchange does not believe that the proposed rule changes will impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments Regarding the Proposed Rule Changes Received from Members, Participants or Others

No written comments were either solicited or received.

¹² The creation of a censure authority within the Plan and the addition of violations were both recommended by the recent Independent Consultant review.

¹³ 15 U.S.C. 78(f)(b).

¹⁴ 15 U.S.C. 78f(b)(5).

III. Date of Effectiveness of the Proposed Rule Changes and Timing for Commission Action

Within 35 days of the date of publication of this notice in the Federal Register or within such other period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) by order approve the proposed rule changes, or

(B) institute proceedings to determine whether the proposed rule changes should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposal is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments:

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to rule-comments@sec.gov. Please include File No. SR-CHX-2005-06 on the subject line.

Paper Comments:

- Send paper comments in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549-0609.

All submissions should refer to File No. SR-CHX-2005-06. This file number should be included on the subject line if e-mail is used. To help the Commission process and

review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule changes between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 450 Fifth Street, NW, Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the CHX. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File No. SR-CHX-2005-06 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹⁵

Margaret H. McFarland
Deputy Secretary

¹⁵ 17 CFR 200.30-3(a)(12).

**Exhibit 5
SR-CHX-2005-06**

Additions are underlined; deletions [bracketed]

ARTICLE VII

Suspension – Reinstatement

RULE 1. No change to text.

Emergency Suspension

RULE 2. (a) Whenever it shall appear to the Chief Regulatory [Executive] Officer (after such verification and with such opportunity for comment by the Participant as the circumstances reasonably permit) that a Participant or any associated person thereof (i) has failed to perform his or its contracts or is insolvent or is in such financial or operational condition or otherwise conducting his or its business in such a manner that he or it cannot be permitted to continue in business with safety to his or its customers or creditors or to the Exchange, including but not limited to, the reasonable belief that the Participant is violating and will continue to violate any [material] provision of the Rules of the Exchange or the federal securities laws (or rules promulgated thereunder) or (ii) has been and is expelled or suspended from any self-regulatory organization or barred or suspended from being associated with a member of any self-regulatory organization, the Chief Regulatory [Executive] Officer may suspend such Participant's Trading Permit or the Trading Permit of such associated person or limit or prohibit such Participant[s] or associated person with respect to access to services offered by the Exchange, and if so suspended or limited or prohibited, prompt notice of such suspension, limitation or prohibition shall be given to all Participants. Unless the Chief Regulatory [Executive] Officer shall determine after further inquiry that lifting the suspension, limitation or prohibition without further proceedings is appropriate, such suspension, limitation or prohibition shall continue until the Participant's Trading Permit or the Trading Permit of such associated person is reinstated or terminated pursuant to Rule 2(b) of this Article. In the case of a person who is not a Participant, whenever it shall appear to the Chief Regulatory [Executive] Officer (after such verification and with such opportunity for comment by the person as circumstances reasonably permit) that such person does not meet the qualification requirements or prerequisites for access to services offered by the Exchange and such person cannot be permitted to continue to have such access with safety to investors, creditors, Participants or the Exchange, the Chief Regulatory [Executive] Officer may limit or prohibit any person with respect to such access. The Chief Regulatory [Executive] Officer shall, within two business days of taking action pursuant to this Rule 2, furnish such person with a written statement setting forth the reasons and specific grounds which constitute the basis for the action taken.

(b) In the event that the Chief Regulatory [Executive] Officer takes any action pursuant to paragraph (a) above, any person named in [affected by] such action shall have the right to appeal. Appeals pursuant to this paragraph shall be made by filing a written notice of appeal with the secretary of the Exchange within five days after notification of the action. The notice shall state with particularity the action complained of, the appellant's reasons for taking exception to the decision and the relief sought. Appeals filed under this paragraph shall be considered and decided by a panel appointed by the Board, composed of three members of the Board. At least two of the three members of the panel shall be public members of the Board. No member of such panel shall have any direct or indirect interest in the matter presented before them which might preclude such member from rendering an objective and impartial determination. All appeals heard pursuant to this paragraph shall be expedited to the maximum extent possible and, in any event, shall be heard within ten days. Appellants shall be notified of the composition of the panel and the time, place and date when the panel will meet. Written materials in support of the appeal or requests to make an oral presentation shall be filed with the panel prior to the date when the panel will meet. The panel will grant requests for oral presentation. After consideration of the appeal, the panel shall, by vote of a majority of its members, affirm, reverse, or modify the action upon which the appeal was made. All decisions of the panel shall be final.

* * *

ARTICLE XI

Financial Responsibility and Reporting Requirements

* * *

Operational Capability

RULE 8. (a) Whenever it shall appear to the Chief Executive Officer or the Chief Regulatory Officer that a Participant Firm is unable or unwilling to make and keep current books and records in accordance with Rules 17a-3 and 17a-4 under the Securities Exchange Act of 1934 or otherwise to maintain adequate operational capability, the Chief Executive Officer or Chief Regulatory Officer may impose such conditions and restrictions upon the operations, business and expansion of such Participant Firm 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 Participants and the Exchange. Each action taken under this Rule shall be reported promptly to the Chief Executive Officer (when such matters are instituted by the Chief Regulatory Officer) and to the vice-chairman of the Board.

(b) In addition to the regular annual field examination that all Participant Firms receive, the Exchange shall conduct such extraordinary field examinations and require such additional reporting of Participant Firms restricted pursuant to paragraph (a) of this Rule

as it may determine to be necessary or appropriate for the protection of investors, other Participants and the Exchange.

* * *

ARTICLE XII

Discipline and Trial Proceedings

Investigation and Charges

RULE 1.

Investigation and Written Report of Investigation Findings

(a) The staff of the Market Regulation Department shall have the authority to conduct investigations of any possible violation of any Exchange rule or any provision of the federal securities laws (or any rule thereunder) by any Participant, associated person thereof or any other person or organization subject to the jurisdiction of the Exchange. Except in emergency situations, the staff shall prepare a written report of such investigation whenever seeking to institute proceeding pursuant to Section (b) of this Rule, which shall be presented to the Chief Regulatory Officer. [Any default, misconduct or other offense alleged to have been committed by a member, member organization or any other person or organization subject to the jurisdiction of the Exchange (the "accused") which, by complaint, or otherwise, shall come to the attention of the Chief Executive Officer shall be investigated by the staff and a written report of such investigation shall be made to the Chief Executive Officer.]

Written Charges

(b) If in the judgment of the Chief Regulatory [Executive] Officer it shall appear from such report that any Participant, associated person thereof or any other person or organization subject to the jurisdiction of the Exchange (the "Respondent") [the accused] is violating or has violated any provision [committed a default or other offense in violation] of the Constitution or Rules of the Exchange or of the federal securities laws or the regulations thereunder, the Chief Regulatory [Executive] Officer shall, except as hereinafter provided, direct the staff to prefer written charges against the respondent [accused]. The written charges shall identify each respondent and state with specificity each Exchange rule or provision of the federal securities laws alleged to have been violated. A copy of such charges shall be served upon the respondent [accused] and filed with the Secretary of the Exchange. [The accused shall also be served with written notice of when and where the charges will be heard].

The Board of Governors and the Executive Committee each shall have the authority to direct the Chief Regulatory Officer to authorize the institution of a disciplinary proceeding when, on the basis of information and belief, either the Board or the

Committee is of the opinion that any Participant, associated person thereof or any other person or organization subject to the jurisdiction of the Exchange is violating or has violated any provision of the Constitution or Rules of the Exchange or of the federal securities laws or the regulations thereunder.

Serving Instruments on Respondent [Accused]

(c) Charges, Orders, notices or any instrument may be served upon the respondent [accused] either personally or by leaving the same at his or its place of business during office hours or by deposit in the United States post office, postage prepaid via registered or certified mail with return receipt requested, addressed to the respondent [accused] at the last business address given by the respondent [accused] to the Exchange.

Settlement Procedure

(d) The respondent may settle a proceeding instituted pursuant to this Rule 1 of this Article at any time by entering into a settlement agreement with the Exchange without admitting or denying the charges, except as to jurisdiction, which must be admitted. Settlement agreements must include a waiver by the respondent of all rights of appeal to the Executive Committee, Board of Governors, Securities and Exchange Commission and United States Court of Appeals or to otherwise challenge or contest the validity of the decision if the offer of settlement is accepted. Settlement agreements must also contain a proposed penalty to be imposed which must be reasonable under the circumstances and consistent with the seriousness of the alleged violations. All settlement agreements must be approved by the Chief Regulatory Officer. Where an offer of settlement is rejected by the Chief Regulatory Officer the offer of settlement shall be deemed withdrawn and it shall not be given consideration in the determination of the issues involved in the disciplinary proceeding. Moreover, the respondent will be granted an additional 10-day period from the time of receipt of the non-acceptance of the offer to file any response required under Rule 5(a) of this Article.

* * *

Summary Procedure

RULE 2.

Minor Infraction

(a) If in the judgment of the Chief Regulatory [Executive] Officer, it shall appear from the investigation and report provided for in Rule 1(a) of this Article that the respondent [accused] has committed a minor infraction of the Constitution or Rules of the Exchange, or of the federal securities laws or the regulations thereunder, the Chief Regulatory [Executive] Officer may summarily censure the respondent [accused] or impose a fine not in excess of \$2,500 [\$500] or both. Any fine imposed pursuant to subsection (a) of this Rule and not contested shall not be publicly reported, except as may be required by

Rule 19d-1 under the Securities Exchange Act of 1934, and as may be required by any other regulatory authority. Any fine that is contested may be publicly reported to the same extent that Exchange disciplinary proceedings may be publicly reported. Any person against whom a fine is imposed pursuant to this Rule may contest the Exchange's determination by filing with the Secretary of the Exchange not later than 30 days after the service of the Notice of Fines, a written response meeting the requirements of an Answer as provided in Article XII, Rule 5 of the Exchange Rules at which point the matter shall become a "Disciplinary Proceeding" subject to the provisions of Article XII applicable to disciplinary proceedings. [The decision of the Chief Executive Officer may be appealed to the Executive Committee by presenting within 15 days of the action, a written statement which specifically admits or denies each charge complained of and the reasons why the accused takes exception thereto and the relief sought. Any charge not specifically denied will constitute an admission of that charge. Unless the Executive Committee shall decide to open the record for the introduction of evidence or to hear argument, such review shall be based on the investigation and report cited above as certified to the Executive Committee by the Secretary. The decision of the Executive Committee shall be final.]

[Summary Hearing and Penalty

(b) If in the judgment of the Chief Executive Officer it shall appear from the investigation and report provided for in Rule 1(a) of this Article that the accused has committed a default or an other offense in violation of the Constitution or Rules of the Exchange or the By-Laws or Rules of the Midwest Clearing Corporation or Midwest Securities Trust Company which is not of such serious nature as to warrant expulsion or suspension, but, on the contrary, lends itself to summary hearing and penalty to be imposed by the Chief Executive Officer and if, in addition, the accused agrees to such hearing and waives his or its right to written charges and a trial, the Chief Executive Officer may consider and determine such default or other offense and impose a suitable penalty therefore. The decision of the Chief Executive Officer shall be final.]

[Settlement Procedure

[(c) Within 15 days from the date of service of the charges, the accused, for the purpose of settling the pending disciplinary action without admitting or denying the charges, may propose in writing to the Chief Executive Officer of the Exchange an offer of settlement which shall contain in reasonable detail:]

[(1) A proposed penalty to be imposed which must be reasonable under the circumstances and consistent with the seriousness of the alleged violations;]

[(2) A waiver of all rights of appeal to the Judiciary Committee, the Executive Committee, Board of Governors, Securities and Exchange Commission and United States Court of Appeals or to otherwise challenge or contest the validity of the decision if the offer of settlement is accepted;]

[(3) The accused may, however, at any time before the case is decided at the trial level by the Hearing examiner, propose an offer of settlement, in accordance with the above procedure, as to those charges which he has denied.]

[Where an offer of settlement is rejected by the Chief Executive Officer the offer of settlement shall be deemed withdrawn and it shall not be given consideration in the determination of the issues involved in the disciplinary proceeding. Moreover, the accused will be granted an additional 10-day period from the time of receipt of the non-acceptance of the offer to file any response required under Rule 5(a) of this Article.]

Collateral Proceedings

(b)[(d)](1) Whenever a Participant, or partner, officer or registered employee of a Participant is suspended or expelled from any other securities exchange or any national securities association, or is suspended or barred from being associated with any member or member organization of such exchange or association, or is suspended or barred by any governmental securities agency from dealing in securities or being associated with any broker or dealer in securities, the Chief Regulatory [Executive] Officer may, in view of such suspension, expulsion or bar, suspend or expel such person or organization as a Participant, or partner, officer or registered employee of a Participant[or organization]. No such suspension imposed by the Chief Regulatory [Executive] Officer shall commence before or expire after the suspension imposed by such other exchange, association or agency, and no such expulsion shall be imposed by the Chief Regulatory [Executive] Officer unless such Participant has been expelled or barred by such other exchange, association or agency. Nothing in this Rule 2(b)[(d)] shall preclude any proceeding against any Participant or partner, officer or registered employee under any other Rule of the Exchange [Section of this Article].

(2) In any contested proceeding under this Rule 2(b)[(d)], the method of procedure required by Rule 1 of this Article shall not apply but the respondent [accused] shall be given not less than ten days' notice in writing that the Chief Executive Officer will appoint a Hearing Officer pursuant to the provisions of Rule 5 of this Article to conduct a hearing to determine whether or not to suspend or expel the respondent [accused], as the case may be as provided in this Rule 2(b)[(d)]. At such hearing, the respondent [accused] Participant, or any partner, holder of voting stock, director or officer of the respondent [accused] Participant or any respondent [accused] partner, officer or registered employee of a Participant Firm shall be afforded an opportunity to explain why it would be inappropriate for the Hearing Officer [Chief Executive Officer] to accept the finding of such other exchange, association or agency or to suspend or expel the respondent [accused] notwithstanding the suspension, expulsion or bar by such other exchange, association or agency. In the event that the Hearing Officer [Chief Executive Officer of the Exchange] determines not to accept the finding [of guilt] by such other exchange, association or agency, he may order a proceeding under any other Rule of this Article. In the event that the respondent [accused] fails or refuses to appear before the Hearing Officer [Chief Executive Officer], the Hearing Officer [Chief Executive Officer]

may nevertheless determine the matter and suspend or expel the respondent [accused] as provided in this Rule 2(b)(d). A written notice of the result shall be served upon the respondent [accused] in a manner provided by Rule 1(c) of this Article and a copy thereof shall be sent to each member of the Board of Governors. Any action by the Hearing Officer [Chief Executive Officer] pursuant to this Rule 2(b)(d) shall be subject to review in accordance with the procedure specified in Rule 6 of this Article. In the event no request for review is filed within 15 [20] days after the respondent [accused] is notified of the determination of the Hearing Officer [Chief Executive Officer], such determination shall become final and not subject to appeal [conclusive].

(3) A Participant, or partner, officer or registered employee of a Participant may, nevertheless, consent to the penalty or suspension or expulsion from the Exchange solely by reason of the imposition of the suspension, expulsion or bar by such other exchange, association or agency, and without either the separate determination of the Hearing Officer [Chief Executive Officer] as provided above in this Rule 2(b)(2)(d)(2) or the procedure provided by Rule 1 of this Article. Such consent shall be in writing, signed by the respondent [accused] Participant, and shall be delivered to the Exchange not later than two business days after the Exchange gives the respondent [accused] notice in writing that it intends to proceed under Rule 2(b)(d) of this Article. The consent shall take effect immediately.

* * *

Hearing [Trial] Procedure

RULE 5.

[Conduct of] Hearing of Charges

(a) In the absence of a written admission by the respondent [accused] or other settlement of (pursuant to the provisions of Rule 1(d) of this Article) of the charges preferred pursuant to this Article, a hearing [trial] of the charges shall be had. Such hearing [trial] shall be before a Hearing Officer [examiner] appointed by the Chief Executive Officer for the purpose of conducting the particular hearing. [trial.]

Answer to Charges

(b) Written answer to the charges shall be filed by the respondent [accused] with the Secretary of the Exchange (with copies to the Market Regulation Department) within 30 [15] days from the date of service of the charges or within such further time as the Hearing Officer [Chief Executive Officer] may grant. The answer to the charges should specifically admit or deny each charge. Any charge not specifically denied [will constitute an admission to that violation.] shall be deemed to be admitted. Any affirmative defenses must be asserted in the answer or they shall be deemed to be waived. If the respondent fails to file an answer within the required timeframe, the allegations of

the charging document shall be deemed to be admitted, and the hearing officer shall hold a hearing to determine the appropriate sanctions. If the respondent files an answer pursuant to the provisions of Rule 2(a) or Rule 9(e) of this Article to contest a fine issued by the Exchange, the Exchange shall file written charges meeting the requirements of Rule 1(b) of this Article within 30 days of service of Respondent's answer.

Prehearing Procedure

(c)(1) The parties shall exchange a list of witnesses that they each plan to call to testify at the hearing no less than 10 days prior to the hearing. No person who is not identified on their list of witnesses shall be permitted to give evidence at the hearing, unless the party requesting the testimony of such witness shows good cause for failing to have previously included such person on his list of witnesses and the party requesting the testimony of such witness can show that the failure to permit such testimony would result in undue hardship to that party.

(2) Within 90 days of the filing of the charges, the parties may request production of all or some of documents that its adversary intends to introduce as evidence either in support of or to counter the charges. Requests for a production of some of the documents to be introduced as evidence shall reasonably specify which documents are to be produced. The party making the request shall be responsible for paying all reasonable costs associated with the production of such documents. If a request is made to produce all or some of the documents that are intended to be introduced as evidence at the hearing, the party responding to the request will be precluded from introducing at the hearing any documents that were not produced in response to the request, unless there is good cause shown for failing to produce the document(s) within the 90 day period for the production of documents and the failure to permit the introduction of such evidence would result in undue hardship to the party requesting to introduce such document. For purposes of this section, the term "documents" means a writing, drawing, graph, report, table, chart, photograph, video or audio recording, or any other data compilation, including data stored by computer, from which information can be obtained.

Conduct of Hearing

(d) Within 30 days of the filing of an answer by the respondent, the Hearing Officer shall schedule the time and place at which the Hearing shall be held. Formal rules of evidence shall not apply in any part of any disciplinary proceedings, although the parties may stipulate as to the rules relating to the introduction of evidence at the hearing. Any such stipulations must be in writing and shall be filed with the Hearing Officer and the Secretary of the Exchange no less than 5 days prior to the scheduled date for the commencement of the hearing. The respondent [accused] shall have the right to be present at the hearing and shall be permitted to examine and cross-examine all witnesses produced by the Exchange, and also to present testimony, defense or explanation. The Market Regulation Department shall have the right to produce witnesses and other evidence in support of the charges, cross-examine all witnesses produced by the respondent, and introduce additional witnesses and evidence solely in rebuttal to the

respondent's evidence. The respondent shall have the right to cross-examine any rebuttal witnesses and enter additional evidence solely to counter any rebuttal evidence entered by the Exchange staff. Both parties shall have the right to make opening and closing oral arguments. The Market Regulation Department staff shall have the right to make a rebuttal oral argument after respondent's opening and closing argument. A transcript of the testimony at the proceedings shall be made.

Appointment of Hearing Officer

(e) The Hearing Officer for each particular matter shall be selected by the Chief Executive Officer. Prospective Hearing Officers shall be required to disclose to the Exchange their employment history for the past 10 years, any past or current material business or other financial relationships the Exchange or any members of the Exchange, and any other information deemed relevant by the Exchange. Such disclosures relating to the particular Hearing Officer selected by the CEO shall be provided to the respondent upon request after the selection of the Hearing Officer. In selecting a Hearing Officer for a particular matter, the CEO should give reasonable consideration to the prospective Hearing Officer's professional competence and reputation, experience in the securities industry, familiarity with the subject matter involved, the absence of bias and any actual or perceived conflict of interest, and any other relevant factors.

Decision

(f) [(b)] After considering the entire record, the Hearing Officer [examiner] shall prepare [for the Chief Executive Officer] a [proposed] written Order [judgment] setting forth his determination as to whether the respondent [accused] committed the violations alleged in the charging document or otherwise established at the Hearing [is guilty as charged] and, if so, the sanction(s) [penalty] to be imposed. [The Chief Executive Officer shall review the proposed written judgment and may accept or modify its conclusions, remand the matter to the hearing examiner for additional findings or supplemental proceedings, or conduct further proceedings himself.] The Order [final judgment] of the Hearing Officer [Chief Executive Officer] shall be in writing and two copies thereof signed by him. One of the signed copies shall be delivered to the respondent [accused] and the other filed with the Secretary of the Exchange (with copies to the Market Regulation Department). The Order shall make specific findings as to each charge brought by the Exchange and, where a violation is found, shall impose appropriate sanctions against the respondent. Such sanctions may include expulsion or suspension of a Participant's Trading Permit, the imposition of limitations on the activities, privileges, functions, and/ or operations of a Participant or person associated with a Participant, the imposition of fine(s), censure, suspending or barring a person or organization from being associated with a Participant or any other fitting sanction. Absent the granting of an extension of time by either the Board of Governors or the Executive Committee, the Hearing Officer shall issue an Order within 90 days of the conclusion of the hearing.

Right to Counsel

(g) [(c)] Except in the case of summary procedure under paragraph[s] (a) [or (b)] of Rule 2, under Rule 3(i) or under paragraph (a) of Rule 4 of this Article, and under the Minor Rules Violation Plan of Rule 9 of this Article, the respondent [accused] shall have the right to be represented by legal or other counsel at the respondent's own expense. Preparation [Prosecution] of the charges and the presentation of evidence in support of charges shall be the responsibility of the Market Regulation Department. [senior staff

members appointed by the Chief Executive Officer.] Exchange counsel shall be present as counsel to the Hearing Officer [examiner].

Impartiality of Hearing Officer [Examiner]

(h) [(d)] When a Hearing Officer [examiner] considers a disciplinary matter he or she is expected to function impartially and independently of the staff members who prepared and prosecuted the charges. Exchange counsel may assist the Hearing Officer [examiner] [and the Chief Executive Officer] in preparing his [their] written recommendations or judgments. Within 15 days of the appointment of the Hearing Officer, the respondent may move for disqualification of the Hearing Officer based upon bias or conflict of interest. Such motions shall be made in writing and state with specificity the facts and circumstances giving rise to the alleged bias or conflict of interest. The motion papers shall be filed with the Hearing Officer and the Secretary of the Exchange (with copies to the Market Regulation Department). The Exchange may file a brief in opposition to the respondent's motion within 15 days of service thereof. The Hearing Officer shall rule upon such motion no later than 30 days from filing by the respondent. Prior adverse rulings against the respondent or his attorney in other matters shall not, in and of themselves, constitute grounds for disqualification. If the Hearing Officer believes the respondent has provided satisfactory evidence in support of the motion to disqualify, he shall remove himself and request the CEO to reassign the hearing to another Hearing Officer. If the Hearing Officer determines that the respondent's grounds for disqualification are insufficient, he shall deny the respondent's motion for disqualification by setting forth the reasons for the denial in writing and the Hearing Officer will precede with the hearing. The ruling by the Hearing Officer on such motions shall not be subject to interlocutory review.

* * *

Review

RULE 6. Judiciary Committee

(a) The respondent [accused] shall have 15 days from the date of service of notice of a penalty imposed under paragraph (c) of Rule 2, paragraph (b) of Rule 4 or under Rule 5 of this Article to demand a review thereof. The Exchange shall have 15 days from the date of service of notice of an Order under paragraph (c) of Rule 2 or under Rule 5 of this Article that contains a decision with a finding that the respondent did not commit any of the violations as alleged in the charging document or imposes a penalty that in the judgment of the Exchange staff is inadequate under the circumstances of the matter to demand a review thereof. Such demand shall be made in writing filed with the Secretary of the Exchange, with copies to the opposing party. In the event no request for review is filed within 15 days after the parties were notified of the determination of the Hearing Officer, such determination shall become final and conclusive. The terms of the Order [judgment] shall be reviewed by a Judiciary Committee appointed by the Board of

Directors or the Executive Committee. The Judiciary Committee may not reverse, or modify, in whole or in part, the decision of the Hearing Officer [Examiner and Final Judgment of the Chief Executive Officer] under paragraph (c) of Rule 2, paragraph (b) of Rule 4 or under Rule 5 if the factual conclusions in the decision are supported by substantial evidence and such decision is not arbitrary, capricious or an abuse of discretion. Modifications may include an increase or decrease of the penalty imposed. Unless the Judiciary Committee shall decide to open the record for the introduction of evidence to hear argument, such review shall be upon the factual record as certified to the Judiciary Committee by the Secretary. Both the respondent and the Exchange staff have the right to file memoranda (not in excess of 25 pages, inclusive of all attachments) in support of their respective positions. The appellant shall file its memorandum with the Secretary of the Exchange within 45 days of service of the notice of appeal, or within such other time as directed by the Executive Committee. The appellee shall file its memorandum within 30 days of the filing of the appellant's memorandum, or within such other time as directed by the Executive Committee. The Judiciary Committee may, in its sole discretion, hear oral argument by the parties regarding the matter. The decision of the Judiciary Committee shall be made in writing and shall address the principal arguments forwarded by the appellant and appellee. The decision of the Judiciary Committee will be the final decision of the Exchange, except as provided in paragraph (b) of this Rule.

[Executive Committee

(b) Any decision of a Judiciary Committee imposing a penalty of expulsion, suspension for more than five days or a fine in excess of \$2,500.00 shall be reviewable by the Executive Committee on its own motion or on written demand filed by the accused with the Secretary of the Exchange within 15 days of the date of service of notice of such decision. Unless the Executive Committee shall decide to open the record for the introduction of evidence or to hear argument, such review shall be upon the record as certified to the Executive Committee by the Secretary, and the Executive Committee may not reverse, or modify the decision of the Judiciary Committee if the factual conclusions in the decision are supported by substantial evidence and such decision is not arbitrary, capricious or an abuse of discretion. Modifications may include an increase or decrease of the penalty imposed on the accused. The decision of the Executive Committee will be final, except as provided in paragraph (c) of this Rule].

Board of Directors[Governors]

(b) [(c)] Notwithstanding the provisions of paragraph (a) [(b)] of this Rule, if the [Executive] Judiciary Committee determines that a matter presented to it for review involves an issue of sufficient importance to warrant such action, it may request that the Board of Directors[Governors], rather than the [Executive] Judiciary Committee, conduct the review. The Board of Directors[Governors] may in its discretion determine to review any decision of the [Executive] Judiciary Committee hereunder. Any review by the Board of Directors[Governors] shall be upon the record as certified to the Board by the Secretary and the Board may not thereafter reverse or modify any decision if the factual

conclusions in the decision are supported by substantial evidence and such decision is not arbitrary, capricious or an abuse of discretion. The Board may also consider any memoranda submitted by the respondent or the staff of the Exchange to the Judiciary Committee pursuant to paragraph (a) of this Rule. The Board may, in its sole discretion, hear oral argument by the parties regarding the matter. Modifications may include an increase or decrease of the penalty imposed on the respondent [accused]. Any decision by the Board shall be the final decision of the Exchange.

* * *

Effective Date of Judgment

RULE 7. The enforcement of any Orders [judgments] or penalties imposed under this Article shall be stayed upon the filing of a notice of appeal under Rule 6(a) of this Article pending the outcome of final review by a Judiciary Committee[, the Executive Committee] or the Board of Governors as provided for by this Article or until the decision otherwise becomes final, subject, however, to the power of the Hearing Officer [Chief Executive Officer] to impose such limitations on the respondent [accused] as are necessary or desirable, in the judgment of the Hearing Officer [Chief Executive Officer] for the protection of the respondent's [accused's] customers, creditors or the Exchange or for the maintenance of just and equitable principles of trade.

* * *

Minor Rule Violations

RULE 9. (a) In lieu of commencing a "disciplinary proceeding" as that term is used in Article XII of the Exchange Rules[and Article VII of the Exchange Constitution], the Exchange may, subject to the requirements set forth in this Rule, impose a censure or fine, not to exceed \$2,500, on any Participant, associated person, or registered or non-registered employee of a Participant, for any violation of a rule of the Exchange, which violation the Exchange shall have determined is minor in nature. Any censure or fine imposed pursuant to this Rule and not contested shall not be publicly reported, except as may be required by Rule 19d-1 under the Securities Exchange Act of 1934, and as may be required by any other regulatory authority. Any censure or fine that is contested may be publicly reported to the same extent that Exchange disciplinary proceedings may be publicly reported.

(b) Procedure for Imposing Sanctions [Fines]. In the event that the staff of the Exchange determines that a Participant, associated person or registered or non-registered employee of a Participant has violated a rule of the Exchange set forth in paragraph (h) of this Rule, and the Exchange staff desires to take action under this Rule 9, the staff shall present the facts supporting the violative conduct to a Minor Rule Violation Panel. The Participant or other person [accused] shall not have the right to attend such presentation nor shall such person [the accused] have the right to present any evidence or testimony at such presentation. A Minor Rule Violation Panel may (i) accept the staff's recommendation

and impose sanctions on behalf of the Exchange in accordance with this Rule 9, (ii) reject the staff's recommendation, or (iii) recommend that the Exchange commence a formal disciplinary proceeding. A Minor Rule Violation Panel shall have no authority, however, to authorize the initiation of a formal disciplinary proceeding. In the event a Minor Rule Violation Panel recommends that the Exchange commence a formal disciplinary proceeding, the staff shall either (i) issue a report to the Chief Executive Officer in accordance with Article XII, Rule 1(a), recommending that formal charges be brought or (ii) advise the Minor Rule Violation Panel that the staff will not recommend that the Exchange commence a formal disciplinary proceeding. In the event that the staff chooses alternative (ii) from the preceding sentence, the matter shall be returned to the Minor Rule Violation Panel that recommended the commencement of the formal disciplinary proceeding, which shall then impose a fine in accordance with the provisions of this Rule 9.

One or more Minor Rule Violation Panels shall be appointed, from time to time, by the Chief Executive Officer and shall each consist of three persons.

Notwithstanding anything in this paragraph (b) to the contrary, the Committee on Floor Procedure shall have jurisdiction to impose a fine pursuant to this Rule for violations of (h)(ii)(7) and (8) of this Rule relating to decorum on the trading floor. However, the Committee on Floor Procedure and a Minor Rule Violation Panel shall not, collectively, impose more than one fine pursuant to this Rule 9 relating to the same underlying violation and incident.

(c) In any action taken by the Exchange pursuant to this Rule, the person against whom a censure or fine is imposed shall be served (as provided in Rule 1(c) of Article XII) with a written statement, signed by a Floor Official or officer of the Exchange, setting forth (i) the rule(s) or policy(ies) alleged to have been violated; (ii) the act or omission constituting each such violation; (iii) the sanction [fine] imposed for each such violation; (iv) the date on which such action is taken; and (v) the date on which such determination becomes final and such fine becomes due and payable to the Exchange, or on which such action must be contested as provided in paragraph (e), such date to be not less than 20 [15] days after the date of service of the written statement.

(d) If the person against whom a fine is imposed pursuant to this Rule pays the fine, such payment shall be deemed to be a waiver by such person of such person's right to a disciplinary proceeding under Article XII and any right to review or appeal.

(e) Except for fines imposed by the Committee on Floor Procedure or its appropriately designated subcommittee pursuant to Article XII, Rule 3, any person against whom a censure or fine is imposed pursuant to this Rule may contest the Exchange's determination by filing with the Secretary of the Exchange not later than the date by which such determination must be contested, a written answer which specifically admits or denies each violation alleged in the Notice and a statement setting forth in detail the reasons why the rule(s) or policies alleged to have been violated are being contested. Any alleged violation not specifically denied will constitute an admission to that

violation. The Secretary of the Exchange may deny the answer if such answer is untimely or the answer fails to establish a prima facie basis for contesting the alleged violations. [response meeting the requirements of an Answer as provided in Article XII, Rule 5 of the Exchange Rules] If the answer is denied by the Secretary of the Exchange, the decision of the Minor Rule Violation Panel shall become final and the censure shall be imposed and/or fine become due and payable. Unless denied by the Secretary of the Exchange, an answer filed by respondent shall be deemed accepted, at which point the matter shall become a "Disciplinary Proceeding" subject to the provisions of Article XII applicable to disciplinary proceedings. Fines imposed by the Committee on Floor Procedure or its appropriately designated subcommittee may be appealed pursuant to the procedures set forth in Rule 3 of this Article.

(f) The Exchange shall prepare and announce to its Participants from time to time a listing of the Exchange rules and policies as to which the Exchange may impose cenures or fines as provided in this Rule. Such listing shall also indicate the specific or recommended dollar amount that may be imposed as a fine hereunder with respect to any violation of such rule or policy, or may indicate the minimum and maximum dollar amount that may be imposed by the Exchange with respect to any such violation. Nothing in this Rule shall require the Exchange to impose a censure or fine pursuant to this Rule with respect to the violation of any rule or policy included in any such listing and the Exchange shall be free, whenever it determines that any violation is not minor in nature, to proceed under other provisions of Article XII rather than under this Rule.

(g) Any fine assessed under this Rule shall not be deemed to satisfy any damages or liability incurred from the violation:

(h) Exchange Rules and Policies subject to the Minor Rule Violation Plan:

(i) Reporting and Record Retention Violations

(1) Acquisition of Trading Permit by general or limited partner (Article II, Rule 1)

(2) General partners bound by rules of Exchange (Article II, Rule 4)

(3) Notice of death or retirement of partner (Article II, Rule 9)

(4) Filing and approval of articles of incorporation (Article III, Rule 4)

(5) Authorization of officers to act (Article III, Rule 5)

(6) Officers, directors and principal stockholders (Article III, Rule 6)

(7) Death or retirement of registrant member (Article III, Rule 11)

(8) Reserved.

- (9) Records of orders transmitted (Article IX, Rule 7)
- (10) Dealing in stocks on put, call, straddle or option (Article IX, Rule 15)
- (11) Record of margin calls and receipt of margin (Article X, Rule 2)
- (12) Record of orders (Article XX, Rule 24)
- (13) Reserved.
- (14) Written reports of transactions (Article XXX, Rule 5)
- (15) Record of orders (Article XXX, Rule 11)
- (16) Financial Operational Reports (Article XI, Rule 4)
- (17) Notification of change in bond coverage (Article XI, Rule 6)
- (18) Filing Requirements on Change of Examining Authority (Article XI, Rule 7)
- (19) Reserved.
- (20) Submission of Evaluation of Co-Specialists Survey (Article VIII, Rule 11)
- (21) Submission of Books to Board (Article VIII, Rule 11)
- (ii) Floor Decorum and Minor Trading Rule Violations
 - (1) Failure to issue ITS pre-opening notification or properly issue a pre-opening response (Article XX, Rule 39)
 - (2) Failure to comply with trade-through, locked markets and block trade rules (Article XX, Rule 40)
 - (3) Failure to adjust limit order executions to the block price upon automatic execution of such limit orders due to primary market price penetration (Article XX, Rule 7, interpretation and policy .06).
 - (4) Failure to comply with 50% requirement (Article XXXIV, Rule 3)
 - (5) Failure by floor Participant to comply with rules relating to short sales when selling short for their own account (Article IX, Rule 17).
 - (6) Failure to comply with public outcry rule (Article XXXIV, Rule 10)

- (7) Violation of Class A decorum rules (Article XII, Rule 3, interpretation and policy .01)
- (8) Violation of Class B decorum rules (Article XII, Rule 3, interpretation and policy .01)
- (9) Reserved.
- (10) Failure to clear the post (Article XX, Rule 10)
- (11) Failure to comply with Cabinet Securities Provision (Article XX, Rule 11)
- (12) Failure to comply with minimum fractional changes (Article XX, Rule 22)
- (13) Reserved.
- (14) Failure to comply with "Stopped" Order Rule (Article XX, Rule 28 and Article XX, Rule 37(a)(6))
- (15) Improper Use of the "SOLD" Designator (Article VIII, Rule 7)
- (16) Trading Ahead of Customer Orders (Article XXX, Rule 2)
- (17) Violation of Preference Solely on Competitive Basis Rule (Article XXX, Rule 3)
- (18) Failure to display a limit order in the quotation (Article XX, Rule 7, interpretation and policy .05)
- (19) Failure to comply with the firm quote rule, other than in response to ITS commitments (Exchange Act Rule 11Ac1-1 "Dissemination of Quotations")
- (20) Failure to meet "BEST Rule" execution obligations (Article XX, Rule 37(a) (2), (3))
- (21) Failure to properly obtain floor official approval of switch from automatic execution mode to manual execution mode (Article XX, Rule 37, Interpretation and Policy .04)
- (22) Reporting of Transactions (Article XXI, Rule 1)
- (23) Failure to comply with the firm quote rule in response to ITS commitments (Article XX, Rule 39(b)(4))
- (24) Failure to comply with single price opening guarantees (Article XX, Rule 37(a)(4))
- (25) Failure of Participant to reasonably supervise its conduct to prevent violations of any rule or regulation that is included in the Minor Rules Violation Plan.
- (26) Entry of Market-at-the-Close Orders (Article XX, Rule 44)

(27) Order to Buy and Sell Same Security (Article XX, Rule 23)

(28) Dealer Required to Purchase All Odd Lots Offered (Article XXXI, Rule 6)

(29) Combining of Orders to Buy or Sell Lots of Same Stock (Article XXXI, Rule 8)

(30) Odd lot order pricing requirements (Article XXXI, Rule 9)

(31) Pricing for preopening Odd lot orders (Article XXXI, Rule 15)

* * *

Pending Proceedings

RULE 10. The initiation of, and all significant changes in the status of, a formal disciplinary proceeding brought by the Exchange shall be reported by the Exchange to the Central Registration Depository operated by the National Association of Securities Dealers, Inc. For purposes of this Rule, significant changes in the status of a pending formal disciplinary proceeding shall include, but are not limited to, issuance of a decision by the Hearing Officer [Chief Executive Officer] the filing of an appeal to and/or the issuance of a decision by a Judiciary Committee[,] or the Exchange's [Executive Committee or] Board of Directors[Governors].

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ARTICLE XIV

Fiscal Policies

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Failure to Pay Debts

RULE 10. (a) Any Participant who shall fail to pay any debt for Trading Permit fees, fine, transaction fee, or other sum owing the Exchange or its subsidiaries within 60 days after the same shall become payable shall, after due notice, be suspended until payment is made. If payment be not made within six months after such suspension, the Trading Permit may be terminated by the Chief Executive Officer on at least 10 days' written notice mailed to the Participant at the Participant's address last registered with the Exchange. The failure to pay any debt owing the Exchange within the timeframes noted herein shall also constitute grounds for initiating disciplinary proceedings pursuant to Article XII against any Participant, associated person or other person or entity subject to the jurisdiction of the Exchange. In any such action, the Exchange shall, if it prevails, be entitled to any sanction that it could obtain in a disciplinary proceeding under Article XII,

plus interest on the amount owed at the Internal Revenue Service rate for prejudgment interest calculated from the date when the debt was first due and payable.

* * *

ARTICLE XXVIII

Listed Securities

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Removal of Securities

RULE 4. (a) The Board of Directors[Governors] may remove securities from the list upon the recommendation of the Hearing Officer in an Order or recommendation of the Chief Regulatory [Executive] Officer or upon application of the issuer. In the absence of special circumstances a security considered by the Exchange to be eligible for continued listing will not be removed from the list upon application of the issuer, unless the issuer files with the Exchange a certified copy of a resolution adopted by the board of directors of the issuer authorizing withdrawal from listing and registration.

[Interpretations and Policies:]

(b) [.01] Right to Hearing

An issuer whose securities the Exchange proposes to delist shall have the right to avail itself of a hearing. Notifications of the intent of the Exchange shall be served upon the company proposed to be delisted by the Listing Unit of the Market Regulation Department [of Stock List] setting forth specific causes for proposed delisting. The notice may be served personally upon the issuer [corporation] by leaving the same at the issuer's [corporation's] place of business during office hours, or by deposit in the United States Post Office, postage prepaid via registered or certified mail, with return receipt requested, or via Overnight Courier service, addressed to the issuer [corporation] at the last business address given by the company to the Exchange. Such notice allows the issuer [corporation] to either consent in writing to the proposed delisting or to demand a hearing on the issue. Written demand for a hearing along with an answer to the causes specified by the Exchange shall be filed with the Secretary of the Exchange not later than 15 days following service of notice of the proposed delisting. The corporation may waive its right to a hearing by consenting in writing to the delisting. [or by failing] Failure of the issuer to demand a hearing in the 15-day period provided shall result in the issuer being delisted without the requirement of a hearing or any other action.

(c) Hearing If the corporation's response to the notice includes a demand for hearing, the Chief Executive Officer shall appoint a Hearing Officer [examiner] who will set a date for hearing. Failure of the issuer to appear at that hearing will be deemed consent to delisting. Although formal rules of evidence shall not apply, the issuer has the right to be

represented by Counsel at the issuer's own expense. The Chief Regulatory [Executive] Officer shall also appoint a representative of the Exchange to introduce evidence establishing cause in the delisting hearing. Exchange Counsel shall be present, as counsel to the Hearing Officer. Transcripts of the hearing shall be made.

The findings of the Hearing Officer shall be reduced to writing and served upon the Secretary of the Exchange and the issuer within 90 days of the hearing. [submitted to the Chief Executive Officer.]

[The Chief Executive Officer, upon receipt of the Hearing Officer's findings shall review them and make a ruling. One copy will thereupon be served upon the corporation, and one copy will be submitted to the Secretary of the Exchange.]

The issuer [corporation] or the Exchange staff shall have fifteen days from the date of receipt of such ruling to file objection and demand a review thereof by the Executive Committee. Such review, unless the Executive Committee determines to permit the introduction of additional evidence, will consist solely of a review of the transcripts of the hearing. The vote of the Executive Committee shall be a majority of the quorum of those present at the review.

The determination of the Executive Committee shall be reduced to writing with one copy served upon the issuer [corporation] and the second copy filed with the Secretary of the Exchange. Such determination shall be final and conclusive.

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ARTICLE XXX

Specialists

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[Termination of Registration]

[RULE 8. Whenever it shall appear or be called to the attention of the Chief Executive Officer that a specialist, co-specialist or relief specialist is violating any of the Rules of the Exchange or the Federal Securities Laws or is conducting business as a specialist, co-specialist or relief specialist in an unethical manner, the Chief Executive Officer shall, without the necessity of previous notice, suspend the registration of such specialist, co-specialist or relief specialist pending an opportunity for a prompt hearing on the apparent violation in accordance with Article XII of the Rules of the Exchange. Notwithstanding the opportunity for hearing, upon imposition of the summary suspension of registration, the Exchange shall provide notification thereof to the Securities and Exchange Commission (the "Commission"). At the same time, the affected specialist, co-specialist or relief specialist may immediately file a request with the Commission for a stay of

imposition of the suspension of registration in accordance with such procedures as the Commission may provide.]

[In connection with its responsibilities to monitor and evaluate the performance of registered specialists, co-specialists, and relief specialists, the committee on Specialist Assignment and Evaluation may suspend or terminate any such registration based upon a finding, after an opportunity for a hearing in accordance with Article XVII that the particular specialist, co-specialist or relief specialist has not satisfactorily performed his responsibilities as defined in the Federal Securities Laws and the rules and policies of the Exchange.]

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ARTICLE XXXI

Odd-Lots and Odd-Lot Dealers, Dual System

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[Termination of Registration]

[RULE 14. Whenever it shall appear or be called to the attention of the Chief Executive Officer that an odd-lot dealer is violating any of the Rules of the Exchange or the federal securities laws or is conducting business as an odd-lot dealer in an unethical manner, the Chief Executive Officer shall, without the necessity of previous notice, suspend the registration of such odd-lot dealer pending an opportunity for a prompt hearing on the apparent violation in accordance with Article XII of the Rules of the Exchange. Notwithstanding the opportunity for hearing, upon imposition of the summary suspension of registration, the Exchange shall provide notification thereof to the Securities and Exchange Commission (the "Commission"). At the same time, the affected odd-lot dealer may immediately file a request with the Commission for a stay of imposition of the suspension of registration in accordance with such procedures as the Commission may provide.]

[In connection with its responsibilities to monitor and evaluate the performance of registered odd-lot dealers, the Committee on Specialist Assignment and Evaluation may suspend or terminate any such registration based upon a finding after an opportunity for a hearing in accordance with Article XVII that the particular odd-lot dealer has not satisfactorily performed his responsibilities as defined in the federal securities laws and the rules and policies of the Exchange.]

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ARTICLE XXXIV**Registered Market Makers – Equity Floor**

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[Suspension and Termination]

[RULE 15. Whenever it shall appear or be called to the attention of the Chief Executive Officer that a registered market maker is violating any of the Rules of the Exchange or the federal securities laws or is conducting business as a market maker in an unethical manner, the Chief Executive Officer shall, without the necessity of previous notice, suspend the registration of such market maker pending an opportunity for a prompt hearing on the apparent violation in accordance with Article XII of the Rules of the Exchange. Notwithstanding the opportunity for hearing, upon imposition of the summary suspension of registration, the Exchange shall provide notification thereof to the Securities and Exchange Commission (the "Commission"). At the same time, the affected market maker may immediately file a request with the Commission for a stay of imposition of the suspension of registration in accordance with such procedures as the Commission may provide.]

[In connection with its responsibilities to monitor and evaluate the performance of registered market makers, the Floor Procedure Committee may suspend or terminate any such registration based upon a finding after an opportunity for a hearing in accordance with Article XVII that the particular market maker has not satisfactorily performed his responsibilities as defined in the federal securities laws and the rules and policies of the Exchange.]

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MINOR RULE VIOLATION PLAN
RECOMMENDED FINE SCHEDULE
 (Pursuant to Article XII, Rule 9(e))

Rule Violation	Fine for First Violation*	Fine for Second Violation*	Fine for Third and Subsequent Violation*
<u>Submission of Books to Board (Article VIII, Rule 11)</u>	<u>\$100</u>	<u>\$500</u>	<u>\$1,000</u>
<u>Reporting of Transactions (Article XXI, Rule 1)</u>	<u>\$100</u>	<u>\$500</u>	<u>\$1,000</u>
<u>Failure to comply with the firm quote rule in response to ITS commitments (Article</u>	<u>\$100</u>	<u>\$500</u>	<u>\$1,000</u>

<u>XX, Rule 39(b)(4)</u>			
<u>Failure to comply with single price opening guarantees (Article XX, Rule 37(a)(4))</u>	<u>\$100</u>	<u>\$500</u>	<u>\$1,000</u>
<u>Failure of Participant to reasonably supervise its conduct to prevent violations of any rule or regulation that is included in the Minor Rules Violation Plan.</u>	<u>\$100</u>	<u>\$500</u>	<u>\$1,000</u>
<u>Entry of Market-at-the-Close Orders (Article XX, Rule 44)</u>	<u>\$100</u>	<u>\$500</u>	<u>\$1,000</u>
<u>Order to Buy and Sell Same Security (Article XX, Rule 23)</u>	<u>\$100</u>	<u>\$500</u>	<u>\$1,000</u>
<u>Dealer Required to Purchase All Odd Lots Offered (Article XXXI, Rule 6)</u>	<u>\$100</u>	<u>\$500</u>	<u>\$1,000</u>
<u>Combining of Orders to Buy or Sell Lots of Same Stock (Article XXXI, Rule 8)</u>	<u>\$100</u>	<u>\$500</u>	<u>\$1,000</u>
<u>Odd lot order pricing requirements (Article XXXI, Rule 9)</u>	<u>\$100</u>	<u>\$500</u>	<u>\$1,000</u>
<u>(31) Pricing for preopening Odd lot orders (Article XXXI, Rule 15)</u>	<u>\$100</u>	<u>\$500</u>	<u>\$1,000</u>