OMB APPROVAL
OMB Number: 3235-0045 Estimated average burden hours per response.....38

Required fields are shown with yellow backgrounds and asterisks.

Page 1 of * 133

SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549
Form 19b-4

File No.* SR - 2016 - * 60

Amendment No. (req. for Amendments *)

Filing by Bats EDGX Exchange, Inc.

Pursuant to Rule 19b-4 under the Securities Exchange Act of 1934

Initial * ☑ Amendment * ☐ Withdrawal ☐

Section 19(b)(2) * ☑ Section 19(b)(3)(A) * ☐ Section 19(b)(3)(B) * ☐

Pilot ☐

Extension of Time Period for Commission Action * ☐

Date Expires *

Rule

- ☐ 19b-4(f)(1)
- ☐ 19b-4(f)(2)
- ☐ 19b-4(f)(3)
- ☐ 19b-4(f)(4)
- ☐ 19b-4(f)(5)
- ☐ 19b-4(f)(6)

Notice of proposed change pursuant to the Payment, Clearing, and Settlement Act of 2010

Section 806(e)(1) * ☐ Section 806(e)(2) * ☐

Security-Based Swap Submission pursuant to the Securities Exchange Act of 1934

Section 3C(b)(2) * ☐

Exhibit 2 Sent As Paper Document ☐

Exhibit 3 Sent As Paper Document ☐

Description

Provide a brief description of the action (limit 250 characters, required when Initial is checked *).

The Exchange proposes a rule change in connection with the proposed corporate transaction involving Bats Global Markets, Inc. and CBOE Holdings, Inc.

Contact Information

Provide the name, telephone number, and e-mail address of the person on the staff of the self-regulatory organization prepared to respond to questions and comments on the action.

First Name * Anders Last Name * Franzon

Title * SVP, Associate General Counsel

E-mail * afranzon@bats.com

Telephone * (913) 815-7154 Fax

Signature

Pursuant to the requirements of the Securities Exchange Act of 1934,

has duly caused this filing to be signed on its behalf by the undersigned thereunto duly authorized.

Date 11/02/2016

By Anders Franzon

(Name *)

(Title *)

SVP, Associate General Counsel

NOTE: Clicking the button at right will digitally sign and lock this form. A digital signature is as legally binding as a physical signature, and once signed, this form cannot be changed.

afranzon@bats.com

Required fields are shown with yellow backgrounds and asterisks.

SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

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

Form 19b-4 Information *

Add Remove View

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 *

Add Remove View

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 1A- Notice of Proposed Rule Change, Security-Based Swap Submission, or Advance Notice by Clearing Agencies *

Add Remove View

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, security-based swap submission, or advance notice 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

Add Remove View

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

Add Remove View

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

Add Remove View

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

Add Remove View

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

Add Remove View

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.

1. Text of the Proposed Rule Change

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),[1] and Rule 19b-4 thereunder,[2] Bats EDGX Exchange, Inc. (the "Exchange") is filing with the Securities and Exchange Commission (the "Commission") a proposed rule change (the "Proposed Rule Change") in connection with the proposed corporate transaction (the "Transaction"), as described in more detail below, involving its ultimate parent company, Bats Global Markets, Inc. ("BGM"), CBOE Holdings, Inc. ("CBOE Holdings"), and two wholly owned subsidiaries of CBOE Holdings, CBOE Corporation and CBOE V, LLC ("CBOE V"). CBOE Holdings is the parent company of Chicago Board Options Exchange, Incorporated ("CBOE") and C2 Options Exchange, Incorporated ("C2"), each a national securities exchange registered with the Commission pursuant to Section 6(a) of the Act,[3] and CBOE Futures Exchange, LLC ("CBOE Futures," and together with CBOE and C2, the "CBOE Exchanges"), a national securities exchange that lists or trades security-futures products notice-registered with the Commission pursuant to Section 6(g) of the Act.[4]

Upon completion of the mergers described below that effectuate the Transaction (the "Closing"), the business of BGM will be carried on by CBOE V. CBOE V, rather than BGM, will be the direct parent company of Direct Edge LLC ("Direct Edge"), which

---

1 15 U.S.C. 78s(b)(1).

2 17 CFR 240.19b-4.

3 15 U.S.C. 78f(a).

4 15 U.S.C. 78f(g).

is the direct parent company of the Exchange. As a result, CBOE Holdings will become the ultimate parent company of Direct Edge and of the Exchange.

To effectuate the Transaction, the Exchange seeks to obtain the Commission's approval of: (i) the resolutions of BGM's board of directors (the "BGM Board") waiving certain provisions of the Amended and Restated Certificate of Incorporation of BGM (the "BGM Charter") and making certain related determinations regarding CBOE Holdings and the impact of the Transaction on the Exchange (the "Resolutions"); (ii) the CBOE Holdings Second Amended and Restated Certificate of Incorporation (the "CBOE Holdings Charter") and the CBOE Holdings Third Amended and Restated Bylaws (the "CBOE Holdings Bylaws"); (iii) the Certificate of Formation of CBOE V (the "CBOE V Certificate") and the Limited Liability Company Operating Agreement of CBOE V (the "CBOE V Operating Agreement"); (iv) the proposed amendments to the Amended and Restated Limited Liability Company Operating Agreement of Direct Edge (the "Direct Edge Operating Agreement"); (v) the proposed amendments to the Fifth Amended and Restated Bylaws of the Exchange (the "Exchange Bylaws"); and (vi) the proposed amendments to EDGX Rules 2.3, 2.10 and 2.12 (the "Exchange Rules").

(a) The text of the Resolutions, the CBOE Holdings Charter, the CBOE Holdings Bylaws, the CBOE V Certificate, the CBOE V Operating Agreement, the Direct Edge Operating Agreement, the Exchange Bylaws and the Exchange Rules are attached as Exhibits 5A through 5H, respectively.

(b) Not applicable.

(c) Not applicable.

2. Procedures of Self-Regulatory Organization

The Board of Directors of the Exchange approved this Proposed Rule Change, including the amendments to the Exchange Bylaws and the Exchange Rules, on October 18, 2016. The BGM Board adopted the Resolutions on September 25, 2016. The CBOE V Certificate was executed by CBOE Holdings and filed with the Secretary of the State of Delaware on September 23, 2016 and became effective as of that date. The CBOE V Operating Agreement was executed by CBOE Holdings as the sole member of CBOE V on September 23, 2016. BGM, as the sole member of Direct Edge, approved the amendments to the Direct Edge Operating Agreement on October 18, 2016.

The persons on the Exchange staff prepared to respond to questions and comments on the proposed rule change are:

Eric Swanson	Anders Franzon
EVP, General Counsel	SVP, Associate General Counsel
(913) 815-7000	(913) 815-7154

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

(a) Purpose

The Exchange submits this Proposed Rule Change to seek the Commission's approval of the organizational and governance documents of the Exchange and its current and proposed future parent companies, and related actions that are necessary in connection with the Closing of the Transaction, as described below.

Other than as described herein and set forth in Exhibits 5A through 5H, the Exchange will continue to conduct its regulated activities (including operating and regulating its market and members) in the manner currently conducted, and will not make

any changes to its regulated activities in connection with the Transaction. Except as set forth in this Proposed Rule Change, the Exchange is not proposing any amendments to its trading and regulatory rules at this time. If the Exchange determines to make any such changes, it will seek the approval of the Commission to the extent required by the Act, and the Commission's rules thereunder, and the Rules of the Exchange.

1. Current Corporate Structures

The Exchange, Bats BZX Exchange, Inc. ("BZX"), Bats BYX Exchange, Inc. ("BYX") and Bats EDGA Exchange, Inc. ("EDGA," and together with the Exchange, BZX and BYX, the "Bats Exchanges") are each Delaware corporations that are national securities exchanges registered with the Commission pursuant to Section 6(a) of the Act.[5]

The Exchange and EDGA are each direct, wholly owned subsidiaries of Direct Edge, a Delaware limited liability company that is a direct, wholly owned subsidiary of BGM. BZX and BYX are direct, wholly owned subsidiaries of Bats Global Markets Holdings, Inc. ("BGM Holdings"), a Delaware corporation that is a direct, wholly owned subsidiary of BGM. In addition to certain other subsidiaries not registered with the Commission in any capacity, BGM Holdings also owns 100 percent of the equity interest in Bats Trading, Inc. ("Bats Trading"), a Delaware corporation that is a broker-dealer registered with the Commission that provides routing services outbound from, and in certain instances inbound to, each Bats Exchange. BGM, a Delaware corporation, is a publicly traded company listed on BZX.

---

5 15 U.S.C. 78f(a).

CBOE Holdings, a Delaware corporation, is a publicly traded company listed on The NASDAQ Stock Market. CBOE Holdings owns 100 percent of the equity interest in the CBOE Exchanges.

In contemplation of the Transaction, CBOE Holdings formed two additional entities, CBOE Corporation, a Delaware corporation, and CBOE V, a Delaware limited liability company, each of which are direct, wholly owned subsidiaries of CBOE Holdings. Each of CBOE Corporation and CBOE V currently have no material assets or conduct any operations.

2. The Transaction

On September 25, 2016, BGM, CBOE Holdings, CBOE Corporation and CBOE V entered into an Agreement and Plan of Merger (the "Merger Agreement"). Pursuant to and subject to the terms of the Merger Agreement, at the Closing, among other things:

(i) CBOE Corporation will be merged with and into BGM, whereupon the separate existence of CBOE Corporation will cease and BGM will be the surviving company (the "Merger");

(ii) by virtue of the Merger and without any action required on the part of BGM, CBOE Corporation or any holder of BGM or CBOE Corporation stock, each share of BGM common stock (whether voting or non-voting) issued and outstanding (with the exception of shares owned by CBOE Holdings, BGM or any of their respective subsidiaries and certain shares held by persons that are entitled to and properly demand appraisal rights) will be converted into the right to receive a particular number of shares of CBOE Holdings and/or cash, at the election of the holder of such share of BGM common stock (the "Merger

Consideration"), and each share of CBOE Corporation issued and outstanding will be converted into one share of BGM, such that BGM will become a wholly owned subsidiary of CBOE Holdings; and

(iii) immediately following the Merger, BGM will be merged with and into CBOE V, whereupon the separate existence of BGM will cease and CBOE V will be the surviving company (the "Subsequent Merger").

Upon the Closing, the Direct Edge Operating Agreement, the Exchange Bylaws and the Exchange Rules will be amended to take into account the post-Closing corporate structure, described below.

3. Post-Closing Corporate Structure

As a result of the Transaction, BGM will cease to exist and the business of BGM will be carried on by CBOE V, which is a wholly owned subsidiary of CBOE Holdings.[6] CBOE V will own 100 percent of the equity interest in Direct Edge and BGM Holdings. Direct Edge will continue to own 100 percent of the equity interest in the Exchange and EDGA. BGM Holdings will continue to own 100 percent of the equity interest in BZX,

---

6 In connection with the Transaction, CBOE Holdings agreed in the Merger Agreement to take all requisite actions so, as of the Closing, the CBOE Holdings Board will include three individuals designated by BGM who (1) are serving as BGM directors immediately prior to the Closing and (2) comply with the policies (including clarifications of the policies provided to BGM) of the Nominating and Governance Committee of the CBOE Holdings Board as in effect on the date of the Merger Agreement and previously provided to BGM (each of whom will be appointed to the CBOE Holdings Board as of the Closing). The CBOE Holdings Board currently consists of 14 directors. The Exchange expects three current CBOE Holdings directors to resign effective prior to the Closing and the remaining CBOE Holdings directors to fill those vacancies with the three BGM directors designated by BGM.

BYX, Bats Trading, and certain other subsidiaries not registered with the Commission in any capacity.[7]

4. Ownership and Voting Limitations of BGM; Resolutions

The BGM Charter provides that (i) no Person,[8] either alone or together with its Related Persons,[9] may own, directly or indirectly, of record or beneficially, shares

---

7 As described above, the Transaction will result in a change of ownership of Bats Trading, which is a member of the Financial Industry Regulatory Authority, Inc. ("FINRA"). The Exchange understands that, pursuant to NASD Rule 1017, Bats Trading is seeking approval for this change of ownership from FINRA.

8 The BGM Charter generally defines a "Person" as a natural person, partnership, corporation, limited liability company, entity, government, or political subdivision, agency or instrumentality of a government. See BGM Charter, Art. FIFTH, para. (a)(i).

9 The BGM Charter generally defines a "Related Person" as, with respect to any Person, (i) any "affiliate" of such Person (as defined in Rule 12b-2 under the Act); (ii) any other Person with which such first Person has any agreement, arrangement or understanding (whether or not in writing) to act together for the purpose of acquiring, voting, holding or disposing of shares of the capital stock of BGM; (iii) in the case of a Person that is a company, corporation or similar entity, any executive officer (as defined under Rule 3b-7 under the Act) or director of such Person and, in the case of a Person that is a partnership or limited liability company, any general partner, managing member or manager of such Person, as applicable; (iv) in the case of any Person that is a registered broker or dealer that has been admitted to membership in any of the Bats Exchanges (for purposes of this definition of "Related Person," each such national securities exchange shall be referred to generally as an "Exchange" and any member of such Exchange, an "Exchange Member"), any Person that is associated with the Exchange Member (as determined using the definition of "person associated with a member" as defined under Section 3(a)(21) of the Act); (v) in the case of a Person that is a natural person and Exchange Member, any broker or dealer that is also an Exchange Member with which such Person is associated; (vi) in the case of a Person that is a natural person, any relative or spouse of such Person, or any relative of such spouse who has the same home as such Person or who is a director or officer of BGM or any of its parents or subsidiaries; (vii) in the case of a Person that is an executive officer (as defined under Rule 3b-7 under the Act) or a director of a company, corporation or similar entity, such company, corporation or entity, as applicable; and (viii) in the case of a Person that is a general partner, managing member or manager of a partnership or limited liability company, such

constituting more than 40 percent of any class of its capital stock, and no Exchange Member, either alone or together with its Related Persons, may own, directly or indirectly, of record or beneficially, shares constituting more than 20 percent of any class of its capital stock (collectively, the "BGM Ownership Limitation"); and (ii) subject to certain exceptions, no Person, either alone or together with its Related Persons, at any time, may, directly, indirectly or pursuant to any of various arrangements, vote or cause the voting of shares or give any consent or proxy with respect to shares representing more than 20 percent of the voting power of its then issued and outstanding capital stock (the "BGM Voting Limitation").[10] Purported transfers that would result in a violation of the BGM Ownership Limitation are not recognized by BGM to the extent of any ownership in excess of the BGM Ownership Limitation, and purported voting or voting arrangements in violation of the BGM Voting Limitation are not honored by BGM to the extent of any voting in excess of the limitation.[11]

However, the BGM Charter provides that each of the BGM Ownership Limitation and the BGM Voting Limitation may be waived (except with respect to Exchange Members and their Related Persons) pursuant to a resolution duly adopted by the BGM Board if, in connection with taking such action, the BGM Board states in such resolution that it is the determination of the BGM Board that the waiver:

---

partnership or limited liability company, as applicable. See BGM Charter, Art. FIFTH, para. (a)(ii).

10 See BGM Charter, Art. FIFTH, para. (b).

11 See BGM Charter, Art. FIFTH, para. (d).

- will not impair the ability of each Bats Exchange to carry out its functions and responsibilities as an "exchange" under the Act and the rules and regulations promulgated thereunder;
- is otherwise in the best interests of BGM, its stockholders, and each Bats Exchange;
- will not impair the ability of the Commission to enforce the Act and the rules and regulations promulgated thereunder; and
- shall not be effective until it is filed with and approved by the Commission.[12]

In granting such a waiver, the BGM Board has the discretion to impose on the Person and its Related Persons, such conditions and restrictions that it deems necessary, appropriate or desirable in furtherance of the objectives of the Act and the rules and regulations promulgated thereunder, and the governance of each Bats Exchange.[13]

In addition, notwithstanding the above, the BGM Charter provides[14] that in any case where a Person, either alone or with its Related Persons, would own or vote more than the BGM Ownership Limitation or BGM Voting Limitation, respectively, upon consummation of any proposed sale, assignment or transfer of BGM's capital stock, such a transaction will not become effective until the BGM Board determines, by resolution, that such Person and its Related Persons are not subject to any "statutory disqualification," as defined in Section 3(a)(39) of the Act.[15]

---

12 See BGM Charter, Art. FIFTH, para. (b)(ii)(B).

13 Id.

14 See BGM Charter, Art. FIFTH, para. (b)(iii).

15 15 U.S.C. 78c(a)(39).

As described above, as a result of the Merger (and prior to its separate existence ceasing as a result of the Subsequent Merger), BGM will become a wholly owned subsidiary of CBOE Holdings, such that CBOE Holdings will possess ownership and voting rights in BGM in excess of the Ownership Limitation and the Voting Limitation. In addition, as a result of the Subsequent Merger, BGM will merge with and into CBOE V, terminating the BGM Charter and becoming an entity whose ownership and voting is held entirely by CBOE Holdings, in excess of the BGM Ownership Limitation and the BGM Voting Limitation that would otherwise apply.

The BGM Board therefore determined that in order to effect the Transaction, a waiver of the BGM Ownership Limitation and the BGM Voting Limitation with respect to CBOE Holdings would be required. To do so, the BGM Board adopted the Resolutions, attached as Exhibit 5A, making certain determinations with respect to CBOE Holdings and the Transaction that are necessary to waive the BGM Ownership Limitation and BGM Voting Limitation. Specifically, the BGM Board determined that:

- the acquisition of the proposed ownership by CBOE Holdings in BGM will not impair the ability of each Bats Exchange to carry out its functions and responsibilities as an "exchange" under the Act and the rules and regulations promulgated thereunder, is otherwise in the best interests of BGM, its stockholders and the Bats Exchanges, and will not impair the ability of the Commission to enforce the Act and the rules and regulations promulgated thereunder;
- the acquisition or exercise of the proposed voting rights by CBOE Holdings in BGM will not impair the ability of each Bats Exchange to carry out its functions

and responsibilities as an "exchange" under the Act and the rules and regulations promulgated thereunder, is otherwise in the best interests of BGM, its stockholders and the Bats Exchanges, and will not impair the ability of the Commission to enforce the Act and the rules and regulations promulgated thereunder;

- neither CBOE Holdings nor any of its Related Persons is subject to "statutory disqualification" within the meaning of Section 3(a)(39) of the Act;[16] and
- neither CBOE Holdings nor any of its Related Persons is an Exchange Member.[17]

The Exchange has reviewed such Resolutions and requests that the Commission approve such Resolutions. The Exchange believes that the Commission should approve the Resolutions, as the Transaction will not impair the ability of any Bats Exchange to carry out its functions and responsibilities as an "exchange" under the Act and the rules and regulations promulgated thereunder, or the ability of the Commission to enforce the Act and the rules and regulations promulgated thereunder. The Bats Exchanges will

---

16 Id.

17 In addition, the Resolutions contain a determination that the execution and delivery of the Merger Agreement by CBOE Holdings constituted notice of CBOE Holdings' intention to acquire ownership and voting rights in excess of the BGM Ownership Limitation and BGM Voting Limitation, respectively, in writing and not less than 45 days before the Closing. See BGM Charter, Art. FIFTH, para. (b)(iv). The Exchange notes that Art. FIFTH, para. (c)(i) of the BGM Charter further requires that any Person that, either alone or together with its Related Persons, owns, directly or indirectly (whether by acquisition or by a change in the number of shares outstanding), of record or beneficially, five percent or more of the then outstanding shares of capital stock of BGM must immediately upon acquiring knowledge of its ownership of five percent or more give written notice of such ownership to the BGM Board. The Merger Agreement provides that the Merger Agreement constitutes such notice with respect to certain voting agreements entered into concurrently with the Merger Agreement. See Merger Agreement, Section 5.21.

continue to operate and regulate their markets and members as they have done prior to the Transaction. Thus, each Bats Exchange will continue to enforce the Act, the Commission's rules thereunder, and each Exchange's own rules, in the manner it does today. Further, the Commission will continue to have plenary regulatory authority over the Bats Exchanges, as is currently the case with these entities.

The Exchange also notes that the Resolutions reflect the determination by the BGM Board that the Transaction and CBOE Holdings' resulting ownership and voting rights in BGM following the Merger, and CBOE V's ownership and voting rights following the Subsequent Merger, are otherwise in the best interests of BGM, its stockholders and the Bats Exchanges. The Bats Exchanges will be ultimately held by an entity, CBOE Holdings, that already owns other national securities exchanges and is subject to governance documents that similarly restrict concentration of ownership and voting rights.

As described in more detail below, the Exchange is also requesting approval of the adoption of the CBOE Holdings Charter and the CBOE Holdings Bylaws. The CBOE Holdings Charter includes a number of provisions relating to the Commission's regulatory oversight that have a similar effect as those in the BGM Charter, including the BGM Ownership Limitation and the BGM Voting Limitation. Therefore, notwithstanding the Resolutions and the Transaction, provisions similar (and, in some cases, more stringent) to the BGM Ownership Limitation and the BGM Voting Limitation will remain in place with respect to potential future transactions involving the ultimate parent company of the Bats Exchanges. This means that the Exchange ownership structure will continue to provide the Commission with appropriate oversight

tools to ensure that the Commission will have the ability to enforce the Act with respect to the Exchange, its direct and indirect parent companies, and its directors, officers, employees and agents to the extent they are involved in the activities of the Exchange, and protect the independence of the Exchange's self-regulatory activities.

The Exchange therefore requests that the Commission approve the Resolutions, attached as Exhibit 5A.

5. CBOE Holdings Charter and CBOE Holdings Bylaws

CBOE Holdings currently holds a direct ownership interest in the CBOE Exchanges. The Commission has previously approved the CBOE Holdings Charter and the CBOE Holdings Bylaws (collectively, the "CBOE Holdings Organizational Documents"), attached as Exhibits 5B and 5C, respectively. [18]

In connection with the Transaction, upon the Closing, CBOE Holdings will become the indirect owner (through CBOE V and Direct Edge) of the Exchange and EDGA and the indirect owner (through CBOE V and BGM Holdings) of BZX, BYX and Bats Trading (and certain other subsidiaries not registered with the Commission in any capacity).

The CBOE Holdings Organizational Documents include various provisions relating to any "Regulated Securities Exchange Subsidiary," which is defined as any national securities exchange controlled, directly or indirectly, by CBOE Holdings. Upon

---

[18] See Securities Exchange Act Release No. 62158 (May 24, 2010), 75 FR 30082 (May 28, 2010) (SR-CBOE–2008–88). The CBOE Organizational Documents have been subsequently amended from time to time pursuant to proposed rule changes that were filed with the Commission for immediate effectiveness. See, e.g., Securities Exchange Act Release No. 76282 (October 27, 2015), 80 FR 67464 (November 2, 2015) (SR-CBOE-2015-092).

the Closing, the Exchange will be covered by the definition of Regulated Securities Exchange Subsidiary for purposes of the CBOE Holdings Organizational Documents. As a result, no amendments to the CBOE Holdings Organizational Documents will be necessary to reflect CBOE Holdings' indirect ownership of the Exchange.

The Exchange believes that the CBOE Holdings Organizational Documents will protect and maintain the integrity of the self-regulatory functions of the Exchange and facilitate the ability of the Exchange and the Commission to carry out their regulatory and oversight obligations under the Act, as the CBOE Organizational Documents do with respect to the CBOE Exchanges.

In addition, the CBOE Organizational Documents contain provisions, including those with respect to the following, that are similar to those contained in the BGM Charter and BGM's Amended and Restated Bylaws (the "BGM Bylaws"), which the Commission has previously found to be consistent with the Act:[19]

- Ownership and Voting Limitations. Similar to the BGM Voting Limitation and the BGM Ownership Limitation contained in the BGM Charter, the CBOE Holdings Charter limits the extent of ownership and voting rights which certain persons may possess or exercise.[20] Like the BGM Charter, the CBOE Holdings Charter similarly prohibits any Person,[21] together with its Related Persons,[22] from

---

19 See Securities Exchange Act Release No. 77464 (March 29, 2016), 81 FR 19252 (April 4, 2016) (File Nos. SR-BATS-2016-10, SR-BYX-2016-02, SR-EDGX-2016-04, and SR-EDGA-2016-01).

20 Compare CBOE Holdings Charter, Art. SIXTH with BGM Charter, Art. FIFTH.

21 "Person" mean an individual, partnership (general or limited), joint stock company, corporation, limited liability company, trust or unincorporated

exercising voting rights with respect to more than 20 percent of the then outstanding votes entitled to be cast on such matter.[23] However, with respect to ownership limitations, the CBOE Holdings Charter contains a more stringent threshold than contained in the BGM Charter. Under the CBOE Holdings Charter, no Person, together with its Related Persons, is permitted at any time to beneficially own directly or indirectly shares of stock of CBOE Holdings representing in the aggregate more than 20 percent of the then outstanding shares of stock of CBOE Holdings.[24] In contrast, the BGM Ownership Limitation only applies a 20 percent threshold to any Exchange Member together with its Related Persons, while applying a 40 percent threshold to any other Person together with its Related Persons. As a result, the CBOE Holdings Charter should be at least as effective as the BGM Charter at preventing any stockholder from exercising undue control over the operation of the Exchange.

- Independence and Non-Interference. Similar to provisions contained in the BGM Bylaws, the CBOE Holdings Charter provides that for so long as CBOE Holdings controls, directly or indirectly, a Regulated Securities Exchange Subsidiary, each officer, director and employee of CBOE Holdings must give due regard to the preservation of the independence of the self-regulatory function of the Regulated

---

organization, or any governmental entity or agency or political subdivision thereof. See CBOE Holdings Charter, Art. FIFTH, para. (a)(iv).

22 "Related Person" is defined in the CBOE Holdings Charter in a manner substantially the same as it is defined in the BGM Charter. See supra note 9; CBOE Holdings Charter, Art. FIFTH, para. (a)(vi).

23 See CBOE Holdings Charter, Art. SIXTH, para. (a).

24 See CBOE Holdings Charter, Art. SIXTH, para. (b).

Securities Exchange Subsidiaries and may not take any actions that he or she knows or reasonably should have known would interfere with the effectuation of any decisions by the board of directors of any Regulated Securities Exchange Subsidiary relating to such Regulated Securities Exchange Subsidiary's regulatory functions (including disciplinary matters) or that would adversely affect the ability of the Regulated Securities Exchange Subsidiary to carry out such Regulated Securities Exchange Subsidiary's responsibilities under the Act.[25]

- Confidentiality. Similar to provisions contained in the BGM Bylaws, the CBOE Holdings Charter provides that, to the fullest extent permitted by applicable law, all confidential information pertaining to the self-regulatory function of Regulated Securities Exchange Subsidiaries contained in the books and records of any Regulated Securities Exchange Subsidiary that shall come into the possession of the CBOE Holdings must be retained in confidence by CBOE Holdings and its officers, directors, employees and agents and must not be used for any commercial purposes.[26]
- Books and Records. Similar to provisions contained in the BGM Bylaws, the CBOE Holdings Charter provides that, for so long as CBOE Holdings directly or indirectly controls any Regulated Securities Exchange Subsidiary, the books, records, premises, officers, directors and employees of CBOE Holdings shall be deemed to be the books, records, premises, officers, directors and employees of

---

25 Compare CBOE Holdings Charter, Art. SIXTEENTH, para. (c) with BGM Bylaws, Section 12.01.

26 Compare CBOE Holdings Charter, Art. FIFTEENTH with BGM Bylaws, Section 12.02.

the Regulated Securities Exchange Subsidiary for purposes of and subject to oversight pursuant to the Act, but only to the extent that such books, records, premises, officers, directors and employees of the Corporation relate to the business of such Regulated Securities Exchange Subsidiary.[27]

- Compliance with Securities Laws; Cooperation with the Commission. Similar to provisions contained in the BGM Bylaws, the CBOE Holdings Charter provides that CBOE Holdings shall comply with the federal securities laws and the rules and regulations thereunder and shall cooperate with the Commission, and each Regulated Securities Exchange Subsidiary pursuant to and to the extent of its regulatory authority, and shall take reasonable steps necessary to cause its agents to cooperate with the Commission and, where applicable, the Regulated Securities Exchange Subsidiaries pursuant to their regulatory authority, with respect to such agents' activities related to the Regulated Securities Exchange Subsidiaries.[28]
- Consent to Jurisdiction. Similar to provisions contained in the BGM Bylaws, the CBOE Holdings Charter provides that CBOE Holdings, its directors, officers, agents and employees, irrevocably submit to the jurisdiction of the U.S. federal courts, the Commission, and the Regulated Securities Exchange Subsidiaries, for the purposes of any suit, action or proceeding pursuant to U.S. federal securities laws or the rules or regulations thereunder, commenced or initiated by the

---

27 Compare CBOE Holdings Charter, Art. FIFTEENTH with BGM Bylaws, Section 12.03.

28 Compare CBOE Holdings Charter, Art. SIXTEENTH, para. (a) with BGM Bylaws, Section 12.04.

Commission arising out of, or relating to, the Regulated Securities Exchange Subsidiaries' activities.[29]

- Amendments. Similar to provisions contained in the BGM Charter and BGM Bylaws, the CBOE Organizational Documents provide that for so long as CBOE Holdings controls, directly or indirectly, Regulated Securities Exchange, before any amendment to or repeal of the CBOE Holdings Charter or CBOE Holdings Bylaws may be effective, such amendment or repeal must be submitted to the board of directors of each such exchange, and if the amendment or repeal is required to be filed with, or filed with and approved by the Commission, then such change shall not be effective until filed with, or filed with and approved by, the Commission, as the case may be.[30]

As stated above, the Exchange believes that the foregoing provisions will assist the Exchange in fulfilling its self-regulatory obligations and in administering and complying with the requirements of the Act.

6. CBOE V Certificate and CBOE V Operating Agreement

Effective as of the Closing of the Transaction, CBOE V will hold direct ownership of (i) Direct Edge, which will continue to hold direct ownership of the Exchange and EDGA and (ii) BGM Holdings, which will continue to hold direct ownership of BZX, BYX and Bats Trading (and certain other subsidiaries not registered

---

29 Compare CBOE Holdings Charter, Art. FOURTEENTH with BGM Bylaws, Section 12.05.

30 Compare CBOE Holdings Charter, Arts. ELEVENTH, TWELFTH and CBOE Holdings Bylaws, Section 10.2 with BGM Charter, Art. FOURTEENTH and BGM Bylaws, Article XI.

with the Commission in any capacity). However, unlike BGM currently, CBOE V will not be the ultimate holding company under the post-Closing corporate structure, but rather will be an intermediate holding company owned by CBOE Holdings. The Exchange believes that the CBOE V Operating Agreement contains provisions relating to its indirect ownership of one or more national securities exchanges, including such exchanges' regulatory functions and Commission oversight, that are appropriate for an intermediate holding company in the ownership chain of a national securities exchange. Many of the provisions of the CBOE V Operating Agreement relating to these matters are similar to the organizational documents of Direct Edge, which currently is, and following the Subsequent Merger will be, similarly situated as an intermediate holding company of the Exchange. The Commission has previously found the Direct Edge organizational documents to be consistent with the Act.[31]

Although CBOE V will not carry out any regulatory functions, the Exchange notes that its activities with respect to the operation of the Bats Exchanges must be consistent with, and must not interfere with, the self-regulatory obligations of each Bats Exchange. The CBOE V Operating Agreement therefore includes certain provisions that are designed to maintain the independence of the Bats Exchanges' self-regulatory functions, enable the Bats Exchanges to operate in a manner that complies with the federal securities laws, including the objectives of Sections 6(b)[32] and 19(g)[33] of the Act,

---

31 See Securities Exchange Act Release No. 71449 (January 30, 2014), 79 FR 6961 (February 5, 2014) (SR-EDGA-2013-34; SR-EDGX-2013-43).

32 15 U.S.C. 78f(b).

33 15 U.S.C. 78s(g).

and facilitate the ability of each Bats Exchange and the Commission to fulfill their respective regulatory and oversight obligations under the Act.

a. CBOE V Certificate of Formation

The CBOE V Certificate, attached as Exhibit 5D, includes the following provisions required under Delaware law: (i) the full name of CBOE V as "CBOE V, LLC", and (ii) the name and address of CBOE V's registered office in the State of Delaware and the name of CBOE V's registered agent at such address.[34] In addition, the CBOE V Certificate contains a provision providing that CBOE V shall indemnify members of its board of directors and certain other persons, subject to certain conditions.

As the Exchange believes is customary for limited liability companies formed in the State of Delaware, other substantive provisions governing the ownership, operation and management of CBOE V are set forth in the CBOE V Operating Agreement, discussed below.

b. CBOE V Operating Agreement

With respect to ownership and control of CBOE V, the CBOE V Operating Agreement, attached as Exhibit 5E, specifically provides that CBOE V's sole member is CBOE Holdings, until the CBOE V Operating Agreement is amended (subject to Commission approval, as described below).[35] Further, for so long as CBOE V controls, directly or indirectly, a subsidiary that is registered with the Commission as a national securities exchange (an "Exchange Subsidiary"), CBOE Holdings may not sell, assign, transfer, convey, gift, exchange or otherwise dispose of any or all of its member interest

---

34 Delaware Limited Liability Company Act § 18-201.

35 CBOE V Operating Agreement, Section 1.1.

in CBOE V, except pursuant to an amendment to the CBOE V Operating Agreement that is filed with and approved by the Commission. [36] These restrictions are designed to ensure that any change to the ownership or control of any Exchange Subsidiary, including without limitation the Bats Exchanges, may only occur through a change in the ownership or control of CBOE Holdings. As such, any purported change of such ownership or control (unless pursuant to a Commission-approved change of ownership of CBOE V) would need to comply with the CBOE Holdings Charter and CBOE Holdings Bylaws, including the ownership and voting limitations discussed above (or a Commission-approved waiver therefrom).

The CBOE V Operating Agreement also contains several provisions designed to protect the independence of the self-regulatory functions of the Bats Exchanges. The CBOE V Operating Agreement requires that, for so long as CBOE V, directly or indirectly, controls any Exchange Subsidiary, CBOE Holdings, as the sole member of CBOE V, and officers, employees and agents of CBOE V must give due regard to the preservation of independence of the self-regulatory functions of such Exchange Subsidiary, as well as to its obligations to investors and the general public, and not interfere with the effectuation of any decisions by the board of directors of an Exchange Subsidiary relating to its regulatory functions (including disciplinary matters) or which would interfere with the ability of such Exchange Subsidiary to carry out its responsibilities under the Act.[37]

---

36 CBOE V Operating Agreement, Section 5.1.

37 See CBOE V Operating Agreement, Section 10.1(a).

The CBOE V Operating Agreement also would require that CBOE V comply with the U.S. federal securities laws and rules and regulations thereunder and cooperate with the Commission and each Exchange Subsidiary, as applicable, pursuant to and to the extent of their respective regulatory authority.[38] Further, CBOE V's officers, directors, employees and agents shall be deemed to agree to (i) comply with the U.S. federal securities laws and the rules and regulations thereunder; and (ii) cooperate with the Commission and each Exchange Subsidiary in respect of the Commission's oversight responsibilities regarding such Exchange Subsidiary and the self-regulatory functions and responsibilities of the Exchange Subsidiaries, and CBOE V will take reasonable steps to cause its officers, employees and agents to so cooperate.[39]

Furthermore, to the fullest extent permitted by law, CBOE V and its officers, directors, employees and agents will be deemed to irrevocably submit to the jurisdiction of the U.S. federal courts, the Commission, and each Exchange Subsidiary, as applicable, for purposes of any suit, action, or proceeding pursuant to the U.S. federal securities laws or the rules or regulations thereunder arising out of, or relating to, the activities of such Exchange Subsidiary.[40]

The proposed CBOE V Operating Agreement also contains a number of provisions designed to ensure that the Exchange will have sufficient access to the books and records of CBOE V as they relate to any Exchange Subsidiary. Pursuant to the CBOE V Operating Agreement, to the extent they are related to the operation or

---

38 See CBOE V Operating Agreement, Section 10.2(a).

39 Id.

40 See CBOE V Operating Agreement, Section 10.3(a).

administration of an Exchange Subsidiary, the books, records, premises, officers, agents, and employees of CBOE V are deemed to be the books, records, premises, officers, agents and employees of such Exchange Subsidiary for the purposes of, and subject to oversight pursuant to, the Act.[41] In addition, for as long as CBOE V controls, directly or indirectly, an Exchange Subsidiary, CBOE V's books and records shall be subject at all times to inspection and copying by the Commission and the applicable Exchange Subsidiary, provided that such books and records are related to the operation or administration of an Exchange Subsidiary.[42]

The proposed CBOE V Operating Agreement also provides that, to the fullest extent permitted by law, all books and records of any Exchange Subsidiary reflecting confidential information pertaining to the self-regulatory function of such Exchange Subsidiary (including disciplinary matters, trading data, trading practices and audit information) that comes into the possession of CBOE V, shall be retained in confidence by CBOE V, CBOE V's officers, employees and agents and CBOE Holdings, and not used for any non-regulatory purposes.[43] The proposed CBOE V Operating Agreement provides, however, that the foregoing shall not limit or impede the rights of the Commission or an Exchange Subsidiary to access and examine such confidential information pursuant to the U.S. federal securities laws and the rules and regulations thereunder, or limit or impede the ability of CBOE Holdings or any of CBOE V's officers,

---

41 See CBOE V Operating Agreement, Section 8.4(b).

42 Id.

43 See CBOE V Operating Agreement, Section 8.4(a).

employees or agents to disclose such confidential information to the Commission or an Exchange Subsidiary.[44]

In addition, the CBOE V Operating Agreement provides that for so long as CBOE V controls, directly or indirectly, any Exchange Subsidiary, before any amendment to or repeal of any provision of the CBOE V Operating Agreement will be effective, those changes must be submitted to the board of directors of each Exchange Subsidiary, and if the same must be filed with, or filed with and approved by, the Commission before the changes may be effective under Section 19 of the Act [45] and the rules promulgated thereunder, then the proposed changes shall not be effective until filed with, or filed with and approved by, the Commission, as the case may be.[46]

7. Direct Edge Operating Agreement

The Direct Edge Operating Agreement currently provides that the sole member of Direct Edge is BGM. However, as a result of the Transaction, CBOE V will become the sole member of Direct Edge. The Exchange proposes to amend the Direct Edge Operating Agreement to reflect this change, as set forth in Exhibit 5F.

8. Bylaws of the Exchange

In connection with the Transaction, the Exchange proposes to amend and restate its Fifth Amended and Restated Bylaws and adopt the amended Exchange Bylaws as its Sixth Amended and Restated Bylaws, attached as Exhibit 5G. Specifically, the Exchange

---

44 Id.

45 15 U.S.C. 78s.

46 See CBOE V Operating Agreement, Section 11.2.

proposes to (i) expand the prohibition contained in Section 2 of Article XI of the Exchange Bylaws and (ii) add a definition of "Trading Permit Holder" to Article I.

Currently, Section 2 of Article XI of the Exchange Bylaws prohibits directors of BGM or Direct Edge who are not also directors, officers, staff, counsel or advisors of the Exchange from participating in any meetings of the Exchange's board of directors (or any committee thereof) pertaining to the self-regulatory function of the Exchange (including disciplinary matters). This provision refers to BGM and Direct Edge because they are currently the only direct and indirect owners of the Exchange. However, following the Transaction, the Exchange will be owned indirectly by CBOE V and CBOE Holdings (in addition to its direct ownership by Direct Edge). Therefore, the Exchange is proposing to remove the reference to BGM and insert references to CBOE V and CBOE Holdings, so that CBOE V and CBOE Holdings will both be covered by this prohibition. The Exchange believes that this amendment will protect the independence of the Exchange's self-regulatory activities.

In addition, as noted above, the CBOE Holdings Charter currently prohibits certain persons from owning or exercising voting rights over certain percentages of ownership of CBOE Holdings. The CBOE Holdings Charter permits the board of directors of CBOE Holdings to waive the limitation on the exercise of voting rights in excess of 20 percent of the then outstanding votes entitled to be cast on such matter only if, among other things, "for so long as [CBOE Holdings] directly or indirectly controls any Regulated Securities Exchange Subsidiary, neither such Person nor any of its Related

Persons is a 'Trading Permit Holder' (as defined in the Bylaws of any Regulated Securities Exchange Subsidiary as they may be amended from time to time)."[47]

The Exchange does not issue "trading permits," but admits members. The Exchange believes the provisions of the CBOE Holdings Charter that refer to Trading Permit Holders of its Regulated Securities Exchange Subsidiaries should apply equally to members of the Exchange once it becomes a Regulated Securities Exchange Subsidiary of CBOE Holdings. As a result, the Exchange proposes to add clause (ff) to Article I of the Exchange Bylaws, providing that "'Trading Permit Holder' shall have the same meaning as Exchange Member." This will ensure that the Exchange's members will be considered Trading Permit Holders of a Regulated Securities Exchange Subsidiary for purposes of the CBOE Holdings Charter.

9. Exchange Rules

a. Exchange Rule 2.3 – Member Eligibility

Pursuant to Exchange Rule 2.3, in order to be eligible for membership in the Exchange, a registered broker or dealer is currently required to be a member of at least one other national securities association or national securities exchange. However, membership in the Exchange's affiliated national securities exchanges, BZX, BYX or EDGA, is not sufficient for purposes of eligibility for Exchange membership. The Exchange adopted this because the Bats Exchanges have historically not functioned as the designated examining authority for any of its members, and the Exchange wanted to be sure that any member would be appropriately supervised by another national securities

---

47 See CBOE Holdings Charter, Art. SIXTH, para. (a)(ii)(C).

association or national securities exchange that has the capacity to function as the member's designated examining authority.

As a result of the Transaction, the Exchange will additionally become affiliated with the CBOE Exchanges. As with the Bats Exchanges, C2 does not currently serve as the designated examination authority for any of its members. CBOE, however, does act as the designated examining authority for certain of its members. Therefore, the Exchange proposes to amend Exchange Rule 2.3 to specify that a registered broker or dealer will be eligible for membership only if it is a member of a national securities association or national securities exchange other than or in addition to the following affiliates of the Exchange: BZX, BYX, EDGA and C2.

In addition, to ensure there is no confusion with respect to the possibility that a broker or dealer could qualify for membership in the Exchange based solely on membership in CBOE Futures or any other national securities exchange notice-registered with the Commission pursuant to Section 6(g) of the Act[48] that lists or trades security-futures products, the Exchange proposes to also specify that eligibility for membership requires membership in a national securities association registered pursuant to Section 15A of the Act or a national securities exchange registered with the Commission pursuant to Section 6(a) of the Act, so as to exclude a national securities exchange registered solely under Section 6(g) of the Act. The proposed amendments to Exchange Rule 2.3 are set forth in Exhibit 5H.

---

48 15 U.S.C. 78f(g).

b. Exchange Rule 2.10 – Affiliation between Exchange and a Member

Exchange Rule 2.10 provides that, without prior approval of the Commission, neither the Exchange, nor any of its affiliates, shall directly or indirectly acquire or maintain an ownership interest in a member of the Exchange. This restriction is intended to address potential conflicts of interest that could result from affiliation between the Exchange and a member. Notwithstanding this general restriction, Exchange Rule 2.10 provides that it does not prohibit a member or its affiliate from acquiring or holding an equity interest in BGM that is permitted by the ownership and voting limitations contained in the BGM Charter and the BGM Bylaws. In addition, Exchange Rule 2.10 states that it does not prohibit a member from being or becoming an affiliate of the Exchange, or an affiliate of any affiliate of the Exchange, solely by reason of such member or any officer, director, manager, managing member, partner or affiliate of such member being or becoming either (a) a director of the Exchange pursuant to the Bylaws of the Exchange, or (b) a director of the Exchange serving on the board of directors of BGM. The Exchange proposes to replace the references to BGM in Rule 2.10 with references to CBOE Holdings to reflect the fact that following the Transaction, CBOE Holdings will replace BGM as the ultimate parent holding company of the Exchange.

Exchange Rule 2.10 also clarifies that it does not prohibit the Exchange from being an affiliate of its routing broker-dealer Direct Edge ECN LLC d/b/a DE Route ("DE Route") or of EDGA, BZX, BYX, or Bats Trading, each of which are affiliated with the Exchange. The Exchange proposes to remove the reference to DE Route to reflect the fact that Bats Trading previously replaced DE Route as the Exchange's routing

broker-dealer.[49] The Exchange also proposes to add references to the CBOE Exchanges, as the CBOE Exchanges will become new affiliated exchanges following the Transaction. The proposed amendments to Exchange Rule 2.10 are set forth in Exhibit 5H.

c. Exchange Rule 2.12 – Bats Trading, Inc. as Inbound Router

Exchange Rule 2.12 provides that the Exchange, on behalf of BGM, shall establish and maintain procedures and internal controls reasonably designed to ensure that Bats Trading does not develop or implement changes to its systems on the basis of nonpublic information obtained as a result of its affiliation with the Exchange until such information is available generally to similarly situated members of the Exchange in connection with the provision of inbound order routing to the Exchange. The Exchange proposes to replace the reference to BGM with a reference to "the holding company indirectly owning the Exchange and Bats Trading." This change would reflect the fact that BGM would no longer be the ultimate holding company of the Exchange following the Transaction and would also make this language consistent with the language used in Rule 2.12 of the BZX and BYX rulebooks. The proposed amendments to Exchange Rule 2.12 are set forth in Exhibit 5H.

(b) Statutory Basis

The Exchange believes that the Proposed Rule Change 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) of

---

[49] See Securities Exchange Act Release No. 71449 (January 30, 2014), 79 FR 6961 (February 5, 2014) (SR-EDGA-2013-34; SR-EDGX-2013-43).

the Act.[50] In particular, the proposal is consistent with Section 6(b)(1) of the Act[51] in that it enables the Exchange to be so organized as to have the capacity to be able to carry out the purposes of the Act and to comply, and to enforce compliance by its members and persons associated with its members, with the provisions of the Act, the rules and regulations thereunder, and the Rules of the Exchange.

The Proposed Rule Change is designed to enable the Exchange to continue to have the authority and ability to effectively fulfill its self-regulatory duties pursuant to the Act and the rules promulgated thereunder. In particular, the Proposed Rule Change includes in the CBOE Holdings Charter and CBOE Holdings Bylaws, like the BGM Charter and BGM Bylaws, various provisions intended to protect and maintain the integrity of the self-regulatory functions of the Exchange upon Closing. For example, the CBOE Holdings Charter, as described above, is drafted to preserve the independence of the Exchange's self-regulatory function and carry out its regulatory responsibilities under the Act. In addition, the CBOE Holdings Charter imposes limitations similar to the BGM Ownership Limitation and BGM Voting Limitation to preclude undue influence over or interference with the Exchange's self-regulatory functions and fulfillment of its regulatory duties under the Act.

Moreover, notwithstanding the Proposed Rule Change, including the change to the indirect ownership of the Exchange, the Commission will continue to have regulatory authority over the Exchange, as is currently the case, as well as jurisdiction over the Exchange's direct and indirect parent companies with respect to activities related to the

---

50 15 U.S.C. 78f(b).

51 15 U.S.C. 78f(b)(1).

Exchange.[52] As a result, the Proposed Rule Change will facilitate an ownership structure that will provide the Commission with appropriate oversight tools to ensure that the Commission will have the ability to enforce the Act with respect to the Exchange, its direct and indirect parent companies and their directors, officers, employees and agents to the extent they are involved in the activities of the Exchange.

The Exchange also believes that the Proposed Rule Change furthers the objectives of Section 6(b)(5) of the Act[53] because the Proposed Rule Change would be consistent with and facilitate a governance and regulatory structure that is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to, and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest.

In addition, as discussed further in the Exchange's Statement on Burden on Competition below, the Exchange expects that the Transaction will foster further innovation while facilitating efficient, transparent and well-regulated markets for issuers and investors, removing impediments to, and perfecting the mechanism of a free and open market and a national market system. The Transaction will benefit investors and

---

52 See, e.g., CBOE Holdings Charter, Art. FOURTEENTH; CBOE V Operating Agreement, Section 10.3; Direct Edge Operating Agreement, Section 10.3.

53 15 U.S.C. 78f(b)(5).

the securities market as a whole by, among other things, enhancing competition among securities venues and reducing costs.

Furthermore, the Exchange is not proposing any significant changes to its existing operational and trading structure in connection with the change in ownership; the Exchange will operate in essentially the same manner upon Closing as it operates today. Therefore, the Exchange believes that it will continue to satisfy the requirements of the Act and the rules and regulations thereunder that are applicable to a national securities exchange. The changes that the Exchange is proposing to the Exchange Rules are designed to reflect the prospective affiliation with CBOE Holdings and the CBOE Exchanges. The Exchange believes that the proposed change to its Rules is consistent with the requirements of the Act and the rules and regulations thereunder.

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

The Exchange does not believe that the Proposed Rule Change would result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. Indeed, the Exchange believes that the Proposed Rule Change will enhance competition among trading venues, as the Exchange believes that the Transaction will result in various synergies and efficiencies. For example, the Transaction will allow the Bats Exchanges and the CBOE Exchanges to utilize a single technology platform, which the Exchange expects will reduce Bats Exchanges' and the CBOE Exchanges' combined costs, creating the opportunity to further reduce costs to their respective members and other constituents. The potential use of a single technology platform may also reduce investors' costs of connecting to and using the Bats Exchanges and the CBOE Exchanges, including through the combination of data centers and market

data services. Combining the expertise of the CBOE Exchanges' personnel with the expertise of the Bats Exchanges' personnel will also facilitate ongoing innovation, including through new product creation and platform improvements.

The Exchange notes that the Bats Exchanges and the CBOE Exchanges generally operate with different business models, target different customer bases and primarily focus on different asset classes, limiting any concern that the Transaction could burden competition. Therefore, the Exchange expects that the Transaction will benefit investors, issuers, shareholders and the market as a whole. The Exchange will continue to conduct regulated activities (including operating and regulating its market and members) of the type it currently conducts, but will be able to do so in a more efficient manner to the benefit of its members. These efficiencies will pass through to the benefit of investors and issuers, promoting further efficiencies, competition and capital formation, placing no burden on competition not necessary or appropriate in furtherance of the Act.

Furthermore, the Exchange's conclusion that the Proposed Rule Change would not result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act is consistent with the Commission's prior conclusions about similar combinations involving multiple exchanges in a single corporate family.[54]

---

54 See, e.g., Securities Exchange Act Release Nos. 71375 (January 23, 2014), 79 FR 4771 (January 29, 2014) (SR-BATS-2013-059; SR-BYX-2013-039); 66071 (December 29, 2011), 77 FR 521 (January 5, 2012) (SR-CBOE-2011-107 and SR-NSX-2011-14); 58324 (August 7, 2008), 73 FR 46936 (August 12, 2008) (SR-BSE-2008-02; SR-BSE-2008-23; SR-BSE-2008-25; SR-BSECC-2008-01); 53382 (February 27, 2006), 71 FR 11251 (March 6, 2006) (SR-NYSE-2005-77).

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

The Exchange has not solicited or received written comments on the Proposed Rule Change.

6. Extension of Time Period for Commission Action

The Exchange does not consent at this time to an extension of the time period for Commission action specified in Section 19(b)(2) of the Act.[55]

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.

9. Security-Based Swap Submissions Filed Pursuant to Section 3C of the Act

Not applicable.

10. Advance Notices Filed Pursuant to Section 806(e) of the Payment, Clearing and Settlement Supervision Act

Not applicable.

11. Exhibits

Exhibit 1:	Completed Notice of the Proposed Rule Change for publication in the Federal Register.
Exhibits 1A – 4:	Not applicable.
Exhibit 5A:	Text of Resolutions of the Board of Directors of Bats Global Markets, Inc.

[55] 15 U.S.C. 78s

Exhibit 5B:	Text of Second Amended and Restated Certificate of Incorporation of CBOE Holdings, Inc.
Exhibit 5C:	Text of Third Amended and Restated Bylaws of CBOE Holdings, Inc.
Exhibit 5D:	Text of Certificate of Formation of CBOE V, LLC
Exhibit 5E:	Text of Limited Liability Company Operating Agreement of CBOE V, LLC
Exhibit 5F:	Text of Proposed Amendments to Amended and Restated Limited Liability Company Operating Agreement of Direct Edge LLC
Exhibit 5G:	Text of Proposed Amendments to Fifth Amended and Restated Bylaws of Bats EDGX Exchange, Inc.
Exhibit 5H:	Text of Proposed Amendments to Exchange Rules 2.3, 2.10 and 2.12

EXHIBIT 1

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-_____; File No. SR-BatsEDGX-2016-60)

Self-Regulatory Organizations; Bats EDGX Exchange, Inc.; Notice of Filing of a Proposed Rule Change in Connection with the Proposed Corporate Transaction Involving Bats Global Markets, Inc. and CBOE Holdings, Inc.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),[1] and Rule 19b-4 thereunder,[2] notice is hereby given that on _____, Bats EDGX Exchange, Inc. (the "Exchange" or "EDGX") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the Exchange. 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 Exchange filed a proposed rule change (the "Proposed Rule Change") in connection with the proposed corporate transaction (the "Transaction"), as described in more detail below, involving its ultimate parent company, Bats Global Markets, Inc. ("BGM"), CBOE Holdings, Inc. ("CBOE Holdings"), and two wholly owned subsidiaries of CBOE Holdings, CBOE Corporation and CBOE V, LLC ("CBOE V"). CBOE Holdings is the parent company of Chicago Board Options Exchange, Incorporated ("CBOE") and C2 Options Exchange, Incorporated ("C2"), each a national securities

1 15 U.S.C. 78s(b)(1).

2 17 CFR 240.19b-4.

exchange registered with the Commission pursuant to Section 6(a) of the Act,[3] and CBOE Futures Exchange, LLC ("CBOE Futures," and together with CBOE and C2, the "CBOE Exchanges"), a national securities exchange that lists or trades security-futures products notice-registered with the Commission pursuant to Section 6(g) of the Act.[4]

Upon completion of the mergers described below that effectuate the Transaction (the "Closing"), the business of BGM will be carried on by CBOE V. CBOE V, rather than BGM, will be the direct parent company of Direct Edge LLC ("Direct Edge"), which is the direct parent company of the Exchange. As a result, CBOE Holdings will become the ultimate parent company of Direct Edge and of the Exchange.

To effectuate the Transaction, the Exchange seeks to obtain the Commission's approval of: (i) the resolutions of BGM's board of directors (the "BGM Board") waiving certain provisions of the Amended and Restated Certificate of Incorporation of BGM (the "BGM Charter") and making certain related determinations regarding CBOE Holdings and the impact of the Transaction on the Exchange (the "Resolutions"); (ii) the CBOE Holdings Second Amended and Restated Certificate of Incorporation (the "CBOE Holdings Charter") and the CBOE Holdings Third Amended and Restated Bylaws (the "CBOE Holdings Bylaws"); (iii) the Certificate of Formation of CBOE V (the "CBOE V Certificate") and the Limited Liability Company Operating Agreement of CBOE V (the "CBOE V Operating Agreement"); (iv) the proposed amendments to the Amended and Restated Limited Liability Company Operating Agreement of Direct Edge (the "Direct Edge Operating Agreement"); (v) the proposed amendments to the Fifth Amended and

---

3 15 U.S.C. 78f(a).

4 15 U.S.C. 78f(g).

Restated Bylaws of the Exchange (the "Exchange Bylaws"); and (vi) the proposed amendments to EDGX Rules 2.3, 2.10 and 2.12 (the "Exchange Rules").

The text of the proposed rule change is available at the Exchange's website at www.batstrading.com, at the principal office of the Exchange, and at the Commission's Public Reference Room.

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 Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant parts of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange submits this Proposed Rule Change to seek the Commission's approval of the organizational and governance documents of the Exchange and its current and proposed future parent companies, and related actions that are necessary in connection with the Closing of the Transaction, as described below.

Other than as described herein and set forth in Exhibits 5A through 5H, the Exchange will continue to conduct its regulated activities (including operating and regulating its market and members) in the manner currently conducted, and will not make any changes to its regulated activities in connection with the Transaction. Except as set forth in this Proposed Rule Change, the Exchange is not proposing any amendments to its

trading and regulatory rules at this time. If the Exchange determines to make any such changes, it will seek the approval of the Commission to the extent required by the Act, and the Commission's rules thereunder, and the Rules of the Exchange.

1. Current Corporate Structures

The Exchange, Bats BZX Exchange, Inc. ("BZX"), Bats BYX Exchange, Inc. ("BYX") and Bats EDGA Exchange, Inc. ("EDGA," and together with the Exchange, BZX and BYX, the "Bats Exchanges") are each Delaware corporations that are national securities exchanges registered with the Commission pursuant to Section 6(a) of the Act.[5]

The Exchange and EDGA are each direct, wholly owned subsidiaries of Direct Edge, a Delaware limited liability company that is a direct, wholly owned subsidiary of BGM. BZX and BYX are direct, wholly owned subsidiaries of Bats Global Markets Holdings, Inc. ("BGM Holdings"), a Delaware corporation that is a direct, wholly owned subsidiary of BGM. In addition to certain other subsidiaries not registered with the Commission in any capacity, BGM Holdings also owns 100 percent of the equity interest in Bats Trading, Inc. ("Bats Trading"), a Delaware corporation that is a broker-dealer registered with the Commission that provides routing services outbound from, and in certain instances inbound to, each Bats Exchange. BGM, a Delaware corporation, is a publicly traded company listed on BZX.

CBOE Holdings, a Delaware corporation, is a publicly traded company listed on The NASDAQ Stock Market. CBOE Holdings owns 100 percent of the equity interest in the CBOE Exchanges.

---

5 15 U.S.C. 78f(a).

In contemplation of the Transaction, CBOE Holdings formed two additional entities, CBOE Corporation, a Delaware corporation, and CBOE V, a Delaware limited liability company, each of which are direct, wholly owned subsidiaries of CBOE Holdings. Each of CBOE Corporation and CBOE V currently have no material assets or conduct any operations.

2. The Transaction

On September 25, 2016, BGM, CBOE Holdings, CBOE Corporation and CBOE V entered into an Agreement and Plan of Merger (the "Merger Agreement"). Pursuant to and subject to the terms of the Merger Agreement, at the Closing, among other things:

(i) CBOE Corporation will be merged with and into BGM, whereupon the separate existence of CBOE Corporation will cease and BGM will be the surviving company (the "Merger");

(ii) by virtue of the Merger and without any action required on the part of BGM, CBOE Corporation or any holder of BGM or CBOE Corporation stock, each share of BGM common stock (whether voting or non-voting) issued and outstanding (with the exception of shares owned by CBOE Holdings, BGM or any of their respective subsidiaries and certain shares held by persons that are entitled to and properly demand appraisal rights) will be converted into the right to receive a particular number of shares of CBOE Holdings and/or cash, at the election of the holder of such share of BGM common stock (the "Merger Consideration"), and each share of CBOE Corporation issued and outstanding will be converted into one share of BGM, such that BGM will become a wholly owned subsidiary of CBOE Holdings; and

(iii) immediately following the Merger, BGM will be merged with and into CBOE V, whereupon the separate existence of BGM will cease and CBOE V will be the surviving company (the "Subsequent Merger").

Upon the Closing, the Direct Edge Operating Agreement, the Exchange Bylaws and the Exchange Rules will be amended to take into account the post-Closing corporate structure, described below.

3. Post-Closing Corporate Structure

As a result of the Transaction, BGM will cease to exist and the business of BGM will be carried on by CBOE V, which is a wholly owned subsidiary of CBOE Holdings.[6] CBOE V will own 100 percent of the equity interest in Direct Edge and BGM Holdings. Direct Edge will continue to own 100 percent of the equity interest in the Exchange and EDGA. BGM Holdings will continue to own 100 percent of the equity interest in BZX, BYX, Bats Trading, and certain other subsidiaries not registered with the Commission in any capacity.[7]

---

6 In connection with the Transaction, CBOE Holdings agreed in the Merger Agreement to take all requisite actions so, as of the Closing, the CBOE Holdings Board will include three individuals designated by BGM who (1) are serving as BGM directors immediately prior to the Closing and (2) comply with the policies (including clarifications of the policies provided to BGM) of the Nominating and Governance Committee of the CBOE Holdings Board as in effect on the date of the Merger Agreement and previously provided to BGM (each of whom will be appointed to the CBOE Holdings Board as of the Closing). The CBOE Holdings Board currently consists of 14 directors. The Exchange expects three current CBOE Holdings directors to resign effective prior to the Closing and the remaining CBOE Holdings directors to fill those vacancies with the three BGM directors designated by BGM.

7 As described above, the Transaction will result in a change of ownership of Bats Trading, which is a member of the Financial Industry Regulatory Authority, Inc. ("FINRA"). The Exchange understands that, pursuant to NASD Rule 1017, Bats Trading is seeking approval for this change of ownership from FINRA.

4. Ownership and Voting Limitations of BGM; Resolutions

The BGM Charter provides that (i) no Person,[8] either alone or together with its Related Persons,[9] may own, directly or indirectly, of record or beneficially, shares constituting more than 40 percent of any class of its capital stock, and no Exchange Member, either alone or together with its Related Persons, may own, directly or indirectly, of record or beneficially, shares constituting more than 20 percent of any class

---

8 The BGM Charter generally defines a "Person" as a natural person, partnership, corporation, limited liability company, entity, government, or political subdivision, agency or instrumentality of a government. See BGM Charter, Art. FIFTH, para. (a)(i).

9 The BGM Charter generally defines a "Related Person" as, with respect to any Person, (i) any "affiliate" of such Person (as defined in Rule 12b-2 under the Act); (ii) any other Person with which such first Person has any agreement, arrangement or understanding (whether or not in writing) to act together for the purpose of acquiring, voting, holding or disposing of shares of the capital stock of BGM; (iii) in the case of a Person that is a company, corporation or similar entity, any executive officer (as defined under Rule 3b-7 under the Act) or director of such Person and, in the case of a Person that is a partnership or limited liability company, any general partner, managing member or manager of such Person, as applicable; (iv) in the case of any Person that is a registered broker or dealer that has been admitted to membership in any of the Bats Exchanges (for purposes of this definition of "Related Person," each such national securities exchange shall be referred to generally as an "Exchange" and any member of such Exchange, an "Exchange Member"), any Person that is associated with the Exchange Member (as determined using the definition of "person associated with a member" as defined under Section 3(a)(21) of the Act); (v) in the case of a Person that is a natural person and Exchange Member, any broker or dealer that is also an Exchange Member with which such Person is associated; (vi) in the case of a Person that is a natural person, any relative or spouse of such Person, or any relative of such spouse who has the same home as such Person or who is a director or officer of BGM or any of its parents or subsidiaries; (vii) in the case of a Person that is an executive officer (as defined under Rule 3b-7 under the Act) or a director of a company, corporation or similar entity, such company, corporation or entity, as applicable; and (viii) in the case of a Person that is a general partner, managing member or manager of a partnership or limited liability company, such partnership or limited liability company, as applicable. See BGM Charter, Art. FIFTH, para. (a)(ii).

of its capital stock (collectively, the "BGM Ownership Limitation"); and (ii) subject to certain exceptions, no Person, either alone or together with its Related Persons, at any time, may, directly, indirectly or pursuant to any of various arrangements, vote or cause the voting of shares or give any consent or proxy with respect to shares representing more than 20 percent of the voting power of its then issued and outstanding capital stock (the "BGM Voting Limitation").[10] Purported transfers that would result in a violation of the BGM Ownership Limitation are not recognized by BGM to the extent of any ownership in excess of the BGM Ownership Limitation, and purported voting or voting arrangements in violation of the BGM Voting Limitation are not honored by BGM to the extent of any voting in excess of the limitation.[11]

However, the BGM Charter provides that each of the BGM Ownership Limitation and the BGM Voting Limitation may be waived (except with respect to Exchange Members and their Related Persons) pursuant to a resolution duly adopted by the BGM Board if, in connection with taking such action, the BGM Board states in such resolution that it is the determination of the BGM Board that the waiver:

- will not impair the ability of each Bats Exchange to carry out its functions and responsibilities as an "exchange" under the Act and the rules and regulations promulgated thereunder;
- is otherwise in the best interests of BGM, its stockholders, and each Bats Exchange;

---

10 See BGM Charter, Art. FIFTH, para. (b).

11 See BGM Charter, Art. FIFTH, para. (d).

- will not impair the ability of the Commission to enforce the Act and the rules and regulations promulgated thereunder; and
- shall not be effective until it is filed with and approved by the Commission.[12]

In granting such a waiver, the BGM Board has the discretion to impose on the Person and its Related Persons, such conditions and restrictions that it deems necessary, appropriate or desirable in furtherance of the objectives of the Act and the rules and regulations promulgated thereunder, and the governance of each Bats Exchange.[13]

In addition, notwithstanding the above, the BGM Charter provides[14] that in any case where a Person, either alone or with its Related Persons, would own or vote more than the BGM Ownership Limitation or BGM Voting Limitation, respectively, upon consummation of any proposed sale, assignment or transfer of BGM's capital stock, such a transaction will not become effective until the BGM Board determines, by resolution, that such Person and its Related Persons are not subject to any "statutory disqualification," as defined in Section 3(a)(39) of the Act.[15]

As described above, as a result of the Merger (and prior to its separate existence ceasing as a result of the Subsequent Merger), BGM will become a wholly owned subsidiary of CBOE Holdings, such that CBOE Holdings will possess ownership and voting rights in BGM in excess of the Ownership Limitation and the Voting Limitation. In addition, as a result of the Subsequent Merger, BGM will merge with and into CBOE

---

12 See BGM Charter, Art. FIFTH, para. (b)(ii)(B).

13 Id.

14 See BGM Charter, Art. FIFTH, para. (b)(iii).

15 15 U.S.C. 78c(a)(39).

V, terminating the BGM Charter and becoming an entity whose ownership and voting is held entirely by CBOE Holdings, in excess of the BGM Ownership Limitation and the BGM Voting Limitation that would otherwise apply.

The BGM Board therefore determined that in order to effect the Transaction, a waiver of the BGM Ownership Limitation and the BGM Voting Limitation with respect to CBOE Holdings would be required. To do so, the BGM Board adopted the Resolutions, attached as Exhibit 5A, making certain determinations with respect to CBOE Holdings and the Transaction that are necessary to waive the BGM Ownership Limitation and BGM Voting Limitation. Specifically, the BGM Board determined that:

- the acquisition of the proposed ownership by CBOE Holdings in BGM will not impair the ability of each Bats Exchange to carry out its functions and responsibilities as an "exchange" under the Act and the rules and regulations promulgated thereunder, is otherwise in the best interests of BGM, its stockholders and the Bats Exchanges, and will not impair the ability of the Commission to enforce the Act and the rules and regulations promulgated thereunder;
- the acquisition or exercise of the proposed voting rights by CBOE Holdings in BGM will not impair the ability of each Bats Exchange to carry out its functions and responsibilities as an "exchange" under the Act and the rules and regulations promulgated thereunder, is otherwise in the best interests of BGM, its stockholders and the Bats Exchanges, and will not impair the ability of the Commission to enforce the Act and the rules and regulations promulgated thereunder;

- neither CBOE Holdings nor any of its Related Persons is subject to "statutory disqualification" within the meaning of Section 3(a)(39) of the Act;[16] and
- neither CBOE Holdings nor any of its Related Persons is an Exchange Member.[17]

The Exchange has reviewed such Resolutions and requests that the Commission approve such Resolutions. The Exchange believes that the Commission should approve the Resolutions, as the Transaction will not impair the ability of any Bats Exchange to carry out its functions and responsibilities as an "exchange" under the Act and the rules and regulations promulgated thereunder, or the ability of the Commission to enforce the Act and the rules and regulations promulgated thereunder. The Bats Exchanges will continue to operate and regulate their markets and members as they have done prior to the Transaction. Thus, each Bats Exchange will continue to enforce the Act, the Commission's rules thereunder, and each Exchange's own rules, in the manner it does today. Further, the Commission will continue to have plenary regulatory authority over the Bats Exchanges, as is currently the case with these entities.

---

16 Id.

17 In addition, the Resolutions contain a determination that the execution and delivery of the Merger Agreement by CBOE Holdings constituted notice of CBOE Holdings' intention to acquire ownership and voting rights in excess of the BGM Ownership Limitation and BGM Voting Limitation, respectively, in writing and not less than 45 days before the Closing. See BGM Charter, Art. FIFTH, para. (b)(iv). The Exchange notes that Art. FIFTH, para. (c)(i) of the BGM Charter further requires that any Person that, either alone or together with its Related Persons, owns, directly or indirectly (whether by acquisition or by a change in the number of shares outstanding), of record or beneficially, five percent or more of the then outstanding shares of capital stock of BGM must immediately upon acquiring knowledge of its ownership of five percent or more give written notice of such ownership to the BGM Board. The Merger Agreement provides that the Merger Agreement constitutes such notice with respect to certain voting agreements entered into concurrently with the Merger Agreement. See Merger Agreement, Section 5.21.

The Exchange also notes that the Resolutions reflect the determination by the BGM Board that the Transaction and CBOE Holdings' resulting ownership and voting rights in BGM following the Merger, and CBOE V's ownership and voting rights following the Subsequent Merger, are otherwise in the best interests of BGM, its stockholders and the Bats Exchanges. The Bats Exchanges will be ultimately held by an entity, CBOE Holdings, that already owns other national securities exchanges and is subject to governance documents that similarly restrict concentration of ownership and voting rights.

As described in more detail below, the Exchange is also requesting approval of the adoption of the CBOE Holdings Charter and the CBOE Holdings Bylaws. The CBOE Holdings Charter includes a number of provisions relating to the Commission's regulatory oversight that have a similar effect as those in the BGM Charter, including the BGM Ownership Limitation and the BGM Voting Limitation. Therefore, notwithstanding the Resolutions and the Transaction, provisions similar (and, in some cases, more stringent) to the BGM Ownership Limitation and the BGM Voting Limitation will remain in place with respect to potential future transactions involving the ultimate parent company of the Bats Exchanges. This means that the Exchange ownership structure will continue to provide the Commission with appropriate oversight tools to ensure that the Commission will have the ability to enforce the Act with respect to the Exchange, its direct and indirect parent companies, and its directors, officers, employees and agents to the extent they are involved in the activities of the Exchange, and protect the independence of the Exchange's self-regulatory activities.

The Exchange therefore requests that the Commission approve the Resolutions, attached as Exhibit 5A.

5. CBOE Holdings Charter and CBOE Holdings Bylaws

CBOE Holdings currently holds a direct ownership interest in the CBOE Exchanges. The Commission has previously approved the CBOE Holdings Charter and the CBOE Holdings Bylaws (collectively, the "CBOE Holdings Organizational Documents"), attached as Exhibits 5B and 5C, respectively. [18]

In connection with the Transaction, upon the Closing, CBOE Holdings will become the indirect owner (through CBOE V and Direct Edge) of the Exchange and EDGA and the indirect owner (through CBOE V and BGM Holdings) of BZX, BYX and Bats Trading (and certain other subsidiaries not registered with the Commission in any capacity).

The CBOE Holdings Organizational Documents include various provisions relating to any "Regulated Securities Exchange Subsidiary," which is defined as any national securities exchange controlled, directly or indirectly, by CBOE Holdings. Upon the Closing, the Exchange will be covered by the definition of Regulated Securities Exchange Subsidiary for purposes of the CBOE Holdings Organizational Documents. As a result, no amendments to the CBOE Holdings Organizational Documents will be necessary to reflect CBOE Holdings' indirect ownership of the Exchange.

---

[18] See Securities Exchange Act Release No. 62158 (May 24, 2010), 75 FR 30082 (May 28, 2010) (SR-CBOE–2008–88). The CBOE Organizational Documents have been subsequently amended from time to time pursuant to proposed rule changes that were filed with the Commission for immediate effectiveness. See, e.g., Securities Exchange Act Release No. 76282 (October 27, 2015), 80 FR 67464 (November 2, 2015) (SR-CBOE-2015-092).

The Exchange believes that the CBOE Holdings Organizational Documents will protect and maintain the integrity of the self-regulatory functions of the Exchange and facilitate the ability of the Exchange and the Commission to carry out their regulatory and oversight obligations under the Act, as the CBOE Organizational Documents do with respect to the CBOE Exchanges.

In addition, the CBOE Organizational Documents contain provisions, including those with respect to the following, that are similar to those contained in the BGM Charter and BGM's Amended and Restated Bylaws (the "BGM Bylaws"), which the Commission has previously found to be consistent with the Act:[19]

- Ownership and Voting Limitations. Similar to the BGM Voting Limitation and the BGM Ownership Limitation contained in the BGM Charter, the CBOE Holdings Charter limits the extent of ownership and voting rights which certain persons may possess or exercise.[20] Like the BGM Charter, the CBOE Holdings Charter similarly prohibits any Person,[21] together with its Related Persons,[22] from exercising voting rights with respect to more than 20

---

19 See Securities Exchange Act Release No. 77464 (March 29, 2016), 81 FR 19252 (April 4, 2016) (File Nos. SR-BATS-2016-10, SR-BYX-2016-02, SR-EDGX-2016-04, and SR-EDGA-2016-01).

20 Compare CBOE Holdings Charter, Art. SIXTH with BGM Charter, Art. FIFTH.

21 "Person" mean an individual, partnership (general or limited), joint stock company, corporation, limited liability company, trust or unincorporated organization, or any governmental entity or agency or political subdivision thereof. See CBOE Holdings Charter, Art. FIFTH, para. (a)(iv).

22 "Related Person" is defined in the CBOE Holdings Charter in a manner substantially the same as it is defined in the BGM Charter. See supra note 9; CBOE Holdings Charter, Art. FIFTH, para. (a)(vi).

percent of the then outstanding votes entitled to be cast on such matter.[23] However, with respect to ownership limitations, the CBOE Holdings Charter contains a more stringent threshold than contained in the BGM Charter. Under the CBOE Holdings Charter, no Person, together with its Related Persons, is permitted at any time to beneficially own directly or indirectly shares of stock of CBOE Holdings representing in the aggregate more than 20 percent of the then outstanding shares of stock of CBOE Holdings.[24] In contrast, the BGM Ownership Limitation only applies a 20 percent threshold to any Exchange Member together with its Related Persons, while applying a 40 percent threshold to any other Person together with its Related Persons. As a result, the CBOE Holdings Charter should be at least as effective as the BGM Charter at preventing any stockholder from exercising undue control over the operation of the Exchange.

- Independence and Non-Interference. Similar to provisions contained in the BGM Bylaws, the CBOE Holdings Charter provides that for so long as CBOE Holdings controls, directly or indirectly, a Regulated Securities Exchange Subsidiary, each officer, director and employee of CBOE Holdings must give due regard to the preservation of the independence of the self-regulatory function of the Regulated Securities Exchange Subsidiaries and may not take any actions that he or she knows or reasonably should have known would interfere with the effectuation of any decisions by the board of directors of any Regulated Securities

---

23 See CBOE Holdings Charter, Art. SIXTH, para. (a).

24 See CBOE Holdings Charter, Art. SIXTH, para. (b).

Exchange Subsidiary relating to such Regulated Securities Exchange Subsidiary's regulatory functions (including disciplinary matters) or that would adversely affect the ability of the Regulated Securities Exchange Subsidiary to carry out such Regulated Securities Exchange Subsidiary's responsibilities under the Act.[25]

- Confidentiality. Similar to provisions contained in the BGM Bylaws, the CBOE Holdings Charter provides that, to the fullest extent permitted by applicable law, all confidential information pertaining to the self-regulatory function of Regulated Securities Exchange Subsidiaries contained in the books and records of any Regulated Securities Exchange Subsidiary that shall come into the possession of the CBOE Holdings must be retained in confidence by CBOE Holdings and its officers, directors, employees and agents and must not be used for any commercial purposes.[26]
- Books and Records. Similar to provisions contained in the BGM Bylaws, the CBOE Holdings Charter provides that, for so long as CBOE Holdings directly or indirectly controls any Regulated Securities Exchange Subsidiary, the books, records, premises, officers, directors and employees of CBOE Holdings shall be deemed to be the books, records, premises, officers, directors and employees of the Regulated Securities Exchange Subsidiary for purposes of and subject to oversight pursuant to the Act, but only to the extent that such books, records,

---

25 Compare CBOE Holdings Charter, Art. SIXTEENTH, para. (c) with BGM Bylaws, Section 12.01.

26 Compare CBOE Holdings Charter, Art. FIFTEENTH with BGM Bylaws, Section 12.02.

premises, officers, directors and employees of the Corporation relate to the business of such Regulated Securities Exchange Subsidiary.[27]

- Compliance with Securities Laws; Cooperation with the Commission. Similar to provisions contained in the BGM Bylaws, the CBOE Holdings Charter provides that CBOE Holdings shall comply with the federal securities laws and the rules and regulations thereunder and shall cooperate with the Commission, and each Regulated Securities Exchange Subsidiary pursuant to and to the extent of its regulatory authority, and shall take reasonable steps necessary to cause its agents to cooperate with the Commission and, where applicable, the Regulated Securities Exchange Subsidiaries pursuant to their regulatory authority, with respect to such agents' activities related to the Regulated Securities Exchange Subsidiaries.[28]

- Consent to Jurisdiction. Similar to provisions contained in the BGM Bylaws, the CBOE Holdings Charter provides that CBOE Holdings, its directors, officers, agents and employees, irrevocably submit to the jurisdiction of the U.S. federal courts, the Commission, and the Regulated Securities Exchange Subsidiaries, for the purposes of any suit, action or proceeding pursuant to U.S. federal securities laws or the rules or regulations thereunder, commenced or

---

27 Compare CBOE Holdings Charter, Art. FIFTEENTH with BGM Bylaws, Section 12.03.

28 Compare CBOE Holdings Charter, Art. SIXTEENTH, para. (a) with BGM Bylaws, Section 12.04.

initiated by the Commission arising out of, or relating to, the Regulated Securities Exchange Subsidiaries' activities.[29]

- Amendments. Similar to provisions contained in the BGM Charter and BGM Bylaws, the CBOE Organizational Documents provide that for so long as CBOE Holdings controls, directly or indirectly, Regulated Securities Exchange, before any amendment to or repeal of the CBOE Holdings Charter or CBOE Holdings Bylaws may be effective, such amendment or repeal must be submitted to the board of directors of each such exchange, and if the amendment or repeal is required to be filed with, or filed with and approved by the Commission, then such change shall not be effective until filed with, or filed with and approved by, the Commission, as the case may be.[30]

As stated above, the Exchange believes that the foregoing provisions will assist the Exchange in fulfilling its self-regulatory obligations and in administering and complying with the requirements of the Act.

6. CBOE V Certificate and CBOE V Operating Agreement

Effective as of the Closing of the Transaction, CBOE V will hold direct ownership of (i) Direct Edge, which will continue to hold direct ownership of the Exchange and EDGA and (ii) BGM Holdings, which will continue to hold direct ownership of BZX, BYX and Bats Trading (and certain other subsidiaries not registered

---

29 Compare CBOE Holdings Charter, Art. FOURTEENTH with BGM Bylaws, Section 12.05.

30 Compare CBOE Holdings Charter, Arts. ELEVENTH, TWELFTH and CBOE Holdings Bylaws, Section 10.2 with BGM Charter, Art. FOURTEENTH and BGM Bylaws, Article XI.

with the Commission in any capacity). However, unlike BGM currently, CBOE V will not be the ultimate holding company under the post-Closing corporate structure, but rather will be an intermediate holding company owned by CBOE Holdings. The Exchange believes that the CBOE V Operating Agreement contains provisions relating to its indirect ownership of one or more national securities exchanges, including such exchanges' regulatory functions and Commission oversight, that are appropriate for an intermediate holding company in the ownership chain of a national securities exchange. Many of the provisions of the CBOE V Operating Agreement relating to these matters are similar to the organizational documents of Direct Edge, which currently is, and following the Subsequent Merger will be, similarly situated as an intermediate holding company of the Exchange. The Commission has previously found the Direct Edge organizational documents to be consistent with the Act.[31]

Although CBOE V will not carry out any regulatory functions, the Exchange notes that its activities with respect to the operation of the Bats Exchanges must be consistent with, and must not interfere with, the self-regulatory obligations of each Bats Exchange. The CBOE V Operating Agreement therefore includes certain provisions that are designed to maintain the independence of the Bats Exchanges' self-regulatory functions, enable the Bats Exchanges to operate in a manner that complies with the federal securities laws, including the objectives of Sections 6(b)[32] and 19(g)[33] of the Act,

---

31 See Securities Exchange Act Release No. 71449 (January 30, 2014), 79 FR 6961 (February 5, 2014) (SR-EDGA-2013-34; SR-EDGX-2013-43).

32 15 U.S.C. 78f(b).

33 15 U.S.C. 78s(g).

and facilitate the ability of each Bats Exchange and the Commission to fulfill their respective regulatory and oversight obligations under the Act.

a. CBOE V Certificate of Formation

The CBOE V Certificate, attached as Exhibit 5D, includes the following provisions required under Delaware law: (i) the full name of CBOE V as "CBOE V, LLC", and (ii) the name and address of CBOE V's registered office in the State of Delaware and the name of CBOE V's registered agent at such address.[34] In addition, the CBOE V Certificate contains a provision providing that CBOE V shall indemnify members of its board of directors and certain other persons, subject to certain conditions.

As the Exchange believes is customary for limited liability companies formed in the State of Delaware, other substantive provisions governing the ownership, operation and management of CBOE V are set forth in the CBOE V Operating Agreement, discussed below.

b. CBOE V Operating Agreement

With respect to ownership and control of CBOE V, the CBOE V Operating Agreement, attached as Exhibit 5E, specifically provides that CBOE V's sole member is CBOE Holdings, until the CBOE V Operating Agreement is amended (subject to Commission approval, as described below).[35] Further, for so long as CBOE V controls, directly or indirectly, a subsidiary that is registered with the Commission as a national securities exchange (an "Exchange Subsidiary"), CBOE Holdings may not sell, assign, transfer, convey, gift, exchange or otherwise dispose of any or all of its member interest

---

34 Delaware Limited Liability Company Act § 18-201.

35 CBOE V Operating Agreement, Section 1.1.

in CBOE V, except pursuant to an amendment to the CBOE V Operating Agreement that is filed with and approved by the Commission. [36] These restrictions are designed to ensure that any change to the ownership or control of any Exchange Subsidiary, including without limitation the Bats Exchanges, may only occur through a change in the ownership or control of CBOE Holdings. As such, any purported change of such ownership or control (unless pursuant to a Commission-approved change of ownership of CBOE V) would need to comply with the CBOE Holdings Charter and CBOE Holdings Bylaws, including the ownership and voting limitations discussed above (or a Commission-approved waiver therefrom).

The CBOE V Operating Agreement also contains several provisions designed to protect the independence of the self-regulatory functions of the Bats Exchanges. The CBOE V Operating Agreement requires that, for so long as CBOE V, directly or indirectly, controls any Exchange Subsidiary, CBOE Holdings, as the sole member of CBOE V, and officers, employees and agents of CBOE V must give due regard to the preservation of independence of the self-regulatory functions of such Exchange Subsidiary, as well as to its obligations to investors and the general public, and not interfere with the effectuation of any decisions by the board of directors of an Exchange Subsidiary relating to its regulatory functions (including disciplinary matters) or which would interfere with the ability of such Exchange Subsidiary to carry out its responsibilities under the Act.[37]

---

36 CBOE V Operating Agreement, Section 5.1.

37 See CBOE V Operating Agreement, Section 10.1(a).

The CBOE V Operating Agreement also would require that CBOE V comply with the U.S. federal securities laws and rules and regulations thereunder and cooperate with the Commission and each Exchange Subsidiary, as applicable, pursuant to and to the extent of their respective regulatory authority.[38] Further, CBOE V's officers, directors, employees and agents shall be deemed to agree to (i) comply with the U.S. federal securities laws and the rules and regulations thereunder; and (ii) cooperate with the Commission and each Exchange Subsidiary in respect of the Commission's oversight responsibilities regarding such Exchange Subsidiary and the self-regulatory functions and responsibilities of the Exchange Subsidiaries, and CBOE V will take reasonable steps to cause its officers, employees and agents to so cooperate.[39]

Furthermore, to the fullest extent permitted by law, CBOE V and its officers, directors, employees and agents will be deemed to irrevocably submit to the jurisdiction of the U.S. federal courts, the Commission, and each Exchange Subsidiary, as applicable, for purposes of any suit, action, or proceeding pursuant to the U.S. federal securities laws or the rules or regulations thereunder arising out of, or relating to, the activities of such Exchange Subsidiary.[40]

The proposed CBOE V Operating Agreement also contains a number of provisions designed to ensure that the Exchange will have sufficient access to the books and records of CBOE V as they relate to any Exchange Subsidiary. Pursuant to the CBOE V Operating Agreement, to the extent they are related to the operation or

---

38 See CBOE V Operating Agreement, Section 10.2(a).

39 Id.

40 See CBOE V Operating Agreement, Section 10.3(a).

administration of an Exchange Subsidiary, the books, records, premises, officers, agents, and employees of CBOE V are deemed to be the books, records, premises, officers, agents and employees of such Exchange Subsidiary for the purposes of, and subject to oversight pursuant to, the Act.[41] In addition, for as long as CBOE V controls, directly or indirectly, an Exchange Subsidiary, CBOE V's books and records shall be subject at all times to inspection and copying by the Commission and the applicable Exchange Subsidiary, provided that such books and records are related to the operation or administration of an Exchange Subsidiary.[42]

The proposed CBOE V Operating Agreement also provides that, to the fullest extent permitted by law, all books and records of any Exchange Subsidiary reflecting confidential information pertaining to the self-regulatory function of such Exchange Subsidiary (including disciplinary matters, trading data, trading practices and audit information) that comes into the possession of CBOE V, shall be retained in confidence by CBOE V, CBOE V's officers, employees and agents and CBOE Holdings, and not used for any non-regulatory purposes.[43] The proposed CBOE V Operating Agreement provides, however, that the foregoing shall not limit or impede the rights of the Commission or an Exchange Subsidiary to access and examine such confidential information pursuant to the U.S. federal securities laws and the rules and regulations thereunder, or limit or impede the ability of CBOE Holdings or any of CBOE V's

---

41 See CBOE V Operating Agreement, Section 8.4(b).

42 Id.

43 See CBOE V Operating Agreement, Section 8.4(a).

officers, employees or agents to disclose such confidential information to the Commission or an Exchange Subsidiary.[44]

In addition, the CBOE V Operating Agreement provides that for so long as CBOE V controls, directly or indirectly, any Exchange Subsidiary, before any amendment to or repeal of any provision of the CBOE V Operating Agreement will be effective, those changes must be submitted to the board of directors of each Exchange Subsidiary, and if the same must be filed with, or filed with and approved by, the Commission before the changes may be effective under Section 19 of the Act [45] and the rules promulgated thereunder, then the proposed changes shall not be effective until filed with, or filed with and approved by, the Commission, as the case may be.[46]

7. Direct Edge Operating Agreement

The Direct Edge Operating Agreement currently provides that the sole member of Direct Edge is BGM. However, as a result of the Transaction, CBOE V will become the sole member of Direct Edge. The Exchange proposes to amend the Direct Edge Operating Agreement to reflect this change, as set forth in Exhibit 5F.

8. Bylaws of the Exchange

In connection with the Transaction, the Exchange proposes to amend and restate its Fifth Amended and Restated Bylaws and adopt the amended Exchange Bylaws as its Sixth Amended and Restated Bylaws, attached as Exhibit 5G. Specifically, the Exchange

---

44 Id.

45 15 U.S.C. 78s.

46 See CBOE V Operating Agreement, Section 11.2.

proposes to (i) expand the prohibition contained in Section 2 of Article XI of the Exchange Bylaws and (ii) add a definition of "Trading Permit Holder" to Article I.

Currently, Section 2 of Article XI of the Exchange Bylaws prohibits directors of BGM or Direct Edge who are not also directors, officers, staff, counsel or advisors of the Exchange from participating in any meetings of the Exchange's board of directors (or any committee thereof) pertaining to the self-regulatory function of the Exchange (including disciplinary matters). This provision refers to BGM and Direct Edge because they are currently the only direct and indirect owners of the Exchange. However, following the Transaction, the Exchange will be owned indirectly by CBOE V and CBOE Holdings (in addition to its direct ownership by Direct Edge). Therefore, the Exchange is proposing to remove the reference to BGM and insert references to CBOE V and CBOE Holdings, so that CBOE V and CBOE Holdings will both be covered by this prohibition. The Exchange believes that this amendment will protect the independence of the Exchange's self-regulatory activities.

In addition, as noted above, the CBOE Holdings Charter currently prohibits certain persons from owning or exercising voting rights over certain percentages of ownership of CBOE Holdings. The CBOE Holdings Charter permits the board of directors of CBOE Holdings to waive the limitation on the exercise of voting rights in excess of 20 percent of the then outstanding votes entitled to be cast on such matter only if, among other things, "for so long as [CBOE Holdings] directly or indirectly controls any Regulated Securities Exchange Subsidiary, neither such Person nor any of its Related

Persons is a 'Trading Permit Holder' (as defined in the Bylaws of any Regulated Securities Exchange Subsidiary as they may be amended from time to time)."[47]

The Exchange does not issue "trading permits," but admits members. The Exchange believes the provisions of the CBOE Holdings Charter that refer to Trading Permit Holders of its Regulated Securities Exchange Subsidiaries should apply equally to members of the Exchange once it becomes a Regulated Securities Exchange Subsidiary of CBOE Holdings. As a result, the Exchange proposes to add clause (ff) to Article I of the Exchange Bylaws, providing that "'Trading Permit Holder' shall have the same meaning as Exchange Member." This will ensure that the Exchange's members will be considered Trading Permit Holders of a Regulated Securities Exchange Subsidiary for purposes of the CBOE Holdings Charter.

9. Exchange Rules

a. Exchange Rule 2.3 – Member Eligibility

Pursuant to Exchange Rule 2.3, in order to be eligible for membership in the Exchange, a registered broker or dealer is currently required to be a member of at least one other national securities association or national securities exchange. However, membership in the Exchange's affiliated national securities exchanges, BZX, BYX or EDGA, is not sufficient for purposes of eligibility for Exchange membership. The Exchange adopted this because the Bats Exchanges have historically not functioned as the designated examining authority for any of its members, and the Exchange wanted to be sure that any member would be appropriately supervised by another national securities

---

47 See CBOE Holdings Charter, Art. SIXTH, para. (a)(ii)(C).

association or national securities exchange that has the capacity to function as the member's designated examining authority.

As a result of the Transaction, the Exchange will additionally become affiliated with the CBOE Exchanges. As with the Bats Exchanges, C2 does not currently serve as the designated examination authority for any of its members. CBOE, however, does act as the designated examining authority for certain of its members. Therefore, the Exchange proposes to amend Exchange Rule 2.3 to specify that a registered broker or dealer will be eligible for membership only if it is a member of a national securities association or national securities exchange other than or in addition to the following affiliates of the Exchange: BZX, BYX, EDGA and C2.

In addition, to ensure there is no confusion with respect to the possibility that a broker or dealer could qualify for membership in the Exchange based solely on membership in CBOE Futures or any other national securities exchange notice-registered with the Commission pursuant to Section 6(g) of the Act[48] that lists or trades security-futures products, the Exchange proposes to also specify that eligibility for membership requires membership in a national securities association registered pursuant to Section 15A of the Act or a national securities exchange registered with the Commission pursuant to Section 6(a) of the Act, so as to exclude a national securities exchange registered solely under Section 6(g) of the Act. The proposed amendments to Exchange Rule 2.3 are set forth in Exhibit 5H.

---

48 15 U.S.C. 78f(g).

b. Exchange Rule 2.10 – Affiliation between Exchange and a Member

Exchange Rule 2.10 provides that, without prior approval of the Commission, neither the Exchange, nor any of its affiliates, shall directly or indirectly acquire or maintain an ownership interest in a member of the Exchange. This restriction is intended to address potential conflicts of interest that could result from affiliation between the Exchange and a member. Notwithstanding this general restriction, Exchange Rule 2.10 provides that it does not prohibit a member or its affiliate from acquiring or holding an equity interest in BGM that is permitted by the ownership and voting limitations contained in the BGM Charter and the BGM Bylaws. In addition, Exchange Rule 2.10 states that it does not prohibit a member from being or becoming an affiliate of the Exchange, or an affiliate of any affiliate of the Exchange, solely by reason of such member or any officer, director, manager, managing member, partner or affiliate of such member being or becoming either (a) a director of the Exchange pursuant to the Bylaws of the Exchange, or (b) a director of the Exchange serving on the board of directors of BGM. The Exchange proposes to replace the references to BGM in Rule 2.10 with references to CBOE Holdings to reflect the fact that following the Transaction, CBOE Holdings will replace BGM as the ultimate parent holding company of the Exchange.

Exchange Rule 2.10 also clarifies that it does not prohibit the Exchange from being an affiliate of its routing broker-dealer Direct Edge ECN LLC d/b/a DE Route ("DE Route") or of EDGA, BZX, BYX, or Bats Trading, each of which are affiliated with the Exchange. The Exchange proposes to remove the reference to DE Route to reflect the fact that Bats Trading previously replaced DE Route as the Exchange's routing

broker-dealer.[49] The Exchange also proposes to add references to the CBOE Exchanges, as the CBOE Exchanges will become new affiliated exchanges following the Transaction. The proposed amendments to Exchange Rule 2.10 are set forth in Exhibit 5H.

c. Exchange Rule 2.12 – Bats Trading, Inc. as Inbound Router

Exchange Rule 2.12 provides that the Exchange, on behalf of BGM, shall establish and maintain procedures and internal controls reasonably designed to ensure that Bats Trading does not develop or implement changes to its systems on the basis of nonpublic information obtained as a result of its affiliation with the Exchange until such information is available generally to similarly situated members of the Exchange in connection with the provision of inbound order routing to the Exchange. The Exchange proposes to replace the reference to BGM with a reference to "the holding company indirectly owning the Exchange and Bats Trading." This change would reflect the fact that BGM would no longer be the ultimate holding company of the Exchange following the Transaction and would also make this language consistent with the language used in Rule 2.12 of the BZX and BYX rulebooks. The proposed amendments to Exchange Rule 2.12 are set forth in Exhibit 5H.

2. Statutory Basis

The Exchange believes that the Proposed Rule Change 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) of

---

[49] See Securities Exchange Act Release No. 71449 (January 30, 2014), 79 FR 6961 (February 5, 2014) (SR-EDGA-2013-34; SR-EDGX-2013-43).

the Act.[50] In particular, the proposal is consistent with Section 6(b)(1) of the Act[51] in that it enables the Exchange to be so organized as to have the capacity to be able to carry out the purposes of the Act and to comply, and to enforce compliance by its members and persons associated with its members, with the provisions of the Act, the rules and regulations thereunder, and the Rules of the Exchange.

The Proposed Rule Change is designed to enable the Exchange to continue to have the authority and ability to effectively fulfill its self-regulatory duties pursuant to the Act and the rules promulgated thereunder. In particular, the Proposed Rule Change includes in the CBOE Holdings Charter and CBOE Holdings Bylaws, like the BGM Charter and BGM Bylaws, various provisions intended to protect and maintain the integrity of the self-regulatory functions of the Exchange upon Closing. For example, the CBOE Holdings Charter, as described above, is drafted to preserve the independence of the Exchange's self-regulatory function and carry out its regulatory responsibilities under the Act. In addition, the CBOE Holdings Charter imposes limitations similar to the BGM Ownership Limitation and BGM Voting Limitation to preclude undue influence over or interference with the Exchange's self-regulatory functions and fulfillment of its regulatory duties under the Act.

Moreover, notwithstanding the Proposed Rule Change, including the change to the indirect ownership of the Exchange, the Commission will continue to have regulatory authority over the Exchange, as is currently the case, as well as jurisdiction over the Exchange's direct and indirect parent companies with respect to activities related to the

---

50 15 U.S.C. 78f(b).

51 15 U.S.C. 78f(b)(1).

Exchange.[52] As a result, the Proposed Rule Change will facilitate an ownership structure that will provide the Commission with appropriate oversight tools to ensure that the Commission will have the ability to enforce the Act with respect to the Exchange, its direct and indirect parent companies and their directors, officers, employees and agents to the extent they are involved in the activities of the Exchange.

The Exchange also believes that the Proposed Rule Change furthers the objectives of Section 6(b)(5) of the Act[53] because the Proposed Rule Change would be consistent with and facilitate a governance and regulatory structure that is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to, and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest.

In addition, as discussed further in the Exchange's Statement on Burden on Competition below, the Exchange expects that the Transaction will foster further innovation while facilitating efficient, transparent and well-regulated markets for issuers and investors, removing impediments to, and perfecting the mechanism of a free and open market and a national market system. The Transaction will benefit investors and

---

52 See, e.g., CBOE Holdings Charter, Art. FOURTEENTH; CBOE V Operating Agreement, Section 10.3; Direct Edge Operating Agreement, Section 10.3.

53 15 U.S.C. 78f(b)(5).

the securities market as a whole by, among other things, enhancing competition among securities venues and reducing costs.

Furthermore, the Exchange is not proposing any significant changes to its existing operational and trading structure in connection with the change in ownership; the Exchange will operate in essentially the same manner upon Closing as it operates today. Therefore, the Exchange believes that it will continue to satisfy the requirements of the Act and the rules and regulations thereunder that are applicable to a national securities exchange. The changes that the Exchange is proposing to the Exchange Rules are designed to reflect the prospective affiliation with CBOE Holdings and the CBOE Exchanges. The Exchange believes that the proposed change to its Rules is consistent with the requirements of the Act and the rules and regulations thereunder.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the Proposed Rule Change would result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. Indeed, the Exchange believes that the Proposed Rule Change will enhance competition among trading venues, as the Exchange believes that the Transaction will result in various synergies and efficiencies. For example, the Transaction will allow the Bats Exchanges and the CBOE Exchanges to utilize a single technology platform, which the Exchange expects will reduce Bats Exchanges' and the CBOE Exchanges' combined costs, creating the opportunity to further reduce costs to their respective members and other constituents. The potential use of a single technology platform may also reduce investors' costs of connecting to and using the Bats Exchanges and the CBOE Exchanges, including through the combination of data centers and market

data services. Combining the expertise of the CBOE Exchanges' personnel with the expertise of the Bats Exchanges' personnel will also facilitate ongoing innovation, including through new product creation and platform improvements.

The Exchange notes that the Bats Exchanges and the CBOE Exchanges generally operate with different business models, target different customer bases and primarily focus on different asset classes, limiting any concern that the Transaction could burden competition. Therefore, the Exchange expects that the Transaction will benefit investors, issuers, shareholders and the market as a whole. The Exchange will continue to conduct regulated activities (including operating and regulating its market and members) of the type it currently conducts, but will be able to do so in a more efficient manner to the benefit of its members. These efficiencies will pass through to the benefit of investors and issuers, promoting further efficiencies, competition and capital formation, placing no burden on competition not necessary or appropriate in furtherance of the Act.

Furthermore, the Exchange's conclusion that the Proposed Rule Change would not result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act is consistent with the Commission's prior conclusions about similar combinations involving multiple exchanges in a single corporate family.[54]

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

The Exchange has not solicited or received written comments on the Proposed

---

54 See, e.g., Securities Exchange Act Release Nos. 71375 (January 23, 2014), 79 FR 4771 (January 29, 2014) (SR-BATS-2013-059; SR-BYX-2013-039); 66071 (December 29, 2011), 77 FR 521 (January 5, 2012) (SR-CBOE-2011-107 and SR-NSX-2011-14); 58324 (August 7, 2008), 73 FR 46936 (August 12, 2008) (SR-BSE-2008-02; SR-BSE-2008-23; SR-BSE-2008-25; SR-BSECC-2008-01); 53382 (February 27, 2006), 71 FR 11251 (March 6, 2006) (SR-NYSE-2005-77).

Rule Change.

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

Within 45 days of the date of publication of this notice in the Federal Register or within such longer 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 Exchange consents, the Commission will: (a) by order approve or disapprove such proposed rule change, or (b) institute proceedings to determine whether the proposed rule change 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-BatsEDGX-2016-60 on the subject line.

Paper Comments:

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-1090.

All submissions should refer to File No. SR-BatsEDGX-2016-60. 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 website

(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 change 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 website viewing and printing in the Commission's Public Reference Room, 100 F Street, NE, Washington, DC 20549, on official business days between the hours of 10:00 am and 3:00 pm. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. 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-BatsEDGX-2016-60 and should be submitted on or before [_____21 days from publication in the Federal Register].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[55]

Robert W. Errett
Deputy Secretary

---

55 17 CFR 200.30-3(a)(12).

Exhibit 5A

Note: All text is new.

BATS GLOBAL MARKETS, INC.

(the "Company")

Resolutions of the Meeting of the Board of Directors (the "Board")

On September 25, 2016

WHEREAS, on the date hereof, the Board authorized and approved the execution and delivery of an Agreement and Plan of Merger (the "**Merger Agreement**") among the Company, CBOE Holdings, Inc. ("**CBOE**"), a Delaware Corporation, CBOE Corporation, a Delaware corporation and a wholly owned subsidiary of CBOE ("**Merger Sub**") and CBOE V, LLC, a Delaware limited liability company and a wholly owned subsidiary of CBOE ("**Merger LLC**");

WHEREAS, upon the terms and subject to the conditions contained in the Merger Agreement, among other things, (i) Merger Sub will be merged with and into the Company, whereupon the separate existence of Merger Sub will cease and the Company will be the surviving company (the "**Merger**"), and (ii) the Company will then merge with and into Merger LLC, whereupon the separate existence of the Company will cease and Merger LLC will be the surviving company (the "**Subsequent Merger**" and together with the Merger, the "**Mergers**");

WHEREAS, the Amended and Restated Certificate of Incorporation of the Company (the "**Charter**") contains certain restrictions on the ownership by any person, either alone or together with its Related Persons, of more than forty percent (40%) of any class of capital stock of the Company, or by an Exchange Member, either alone or together with its Related Persons, of more than twenty percent (20%) of shares of any class of capital stock of the Company (the "**Ownership Limitation**"), or the voting of shares by any person, either alone or together with its Related Persons, of more than twenty percent (20%) of the voting power of the issued and outstanding capital stock of the Company (the "**Voting Limitation**"). Capitalized terms used but not defined herein have the meanings given to them in Charter, except where expressly indicated otherwise;

WHEREAS, following the Merger, the Company will be a wholly owned subsidiary of CBOE, such that CBOE will possess ownership (the "**Proposed Share Ownership**") and voting rights (the "**Proposed Voting Rights**") in the Company in excess of the Ownership Limitation and the Voting Limitation, and following the Subsequent Merger, the Company shall cease to exist and the business of the Company will be carried on by Merger LLC, a wholly owned subsidiary of CBOE;

WHEREAS, the Company is currently the ultimate parent company of one or more national securities exchanges (the "**Bats Exchanges**") registered with the Securities and Exchange Commission (the "**SEC**") under Section 6 of the Securities Exchange Act

of 1934 (the "**Exchange Act**"), and following the Mergers, CBOE will become the ultimate parent company of the Bats Exchanges;

WHEREAS, CBOE is currently the ultimate parent company of one or more national securities exchanges (the "**CBOE Exchanges**") registered with the SEC under Section 6 of the Exchange Act;

WHEREAS, the Second Amended and Restated Certificate of Incorporation of CBOE (the "**CBOE Charter**") contains provisions substantially similar to the Ownership Limitation and the Voting Limitation, designed to prevent any stockholder from exercising undue control over the operation of any of the CBOE Exchanges;

WHEREAS, following the Mergers, the provisions of the CBOE Charter that are substantially similar to the Ownership Limitation and the Voting Limitation will similarly prevent any stockholder from exercising undue control over the operation of any of the Bats Exchanges; and

WHEREAS, a condition to the Mergers is that the Commission approve the Mergers, the Operating Agreement of Merger LLC and any related changes to the governance documents and rules of the Company and its subsidiaries;

NOW, THEREFORE, BE IT:

OWNERSHIP LIMITATION AND VOTING LIMITATION

RESOLVED, that the Board has considered the Merger Agreement and the Mergers, and the Proposed Share Ownership and Proposed Voting Rights of CBOE that would result therefrom, and has determined that:

(1) the acquisition of the Proposed Share Ownership by CBOE will not impair the ability of each Bats Exchange to carry out its functions and responsibilities as an "exchange" under the Exchange Act and the rules and regulations promulgated thereunder, is otherwise in the best interests of the Company, its stockholders and the Bats Exchanges, and will not impair the ability of the Commission to enforce the Exchange Act and the rules and regulations promulgated thereunder;

(2) the acquisition or exercise of the Proposed Voting Rights by CBOE will not impair the ability of each Bats Exchange to carry out its functions and responsibilities as an "exchange" under the Exchange Act and the rules and regulations promulgated thereunder, that it is otherwise in the best interests of the Company, its stockholders and the Bats Exchanges, and that it will not impair the ability of the Commission to enforce the Exchange Act and the rules and regulations promulgated thereunder;

(3) neither CBOE, nor any of its Related Persons, is subject to "statutory disqualification" within the meaning of Section 3(a)(39) of the Exchange Act;

(4) neither CBOE, nor any of its Related Persons, is an Exchange Member;

RESOLVED, that the Board hereby determines that the execution and delivery of the Merger Agreement by CBOE constitutes notice of CBOE's intention to acquire the Proposed Share Ownership and Proposed Voting Rights, in writing and not less than forty-five (45) days before the proposed ownership of such shares or the proposed exercise of such voting rights;

RESOLVED, that the Board hereby expressly resolves to authorize, approve and permit CBOE, either alone or together with its Related Persons, upon and following completion of the Merger, to own directly or indirectly, of record or beneficially, shares of the Company's capital stock in excess of the Ownership Limitation;

RESOLVED, that the Board hereby expressly resolves to authorize, approve and permit CBOE, either alone or together with its Related Persons, to vote or cause the voting of all of the shares of the Company's common stock that will be beneficially owned by CBOE and any of its Related Persons upon and following completion of the Merger, whether in person or by proxy, or through any voting agreement or other arrangement, in excess of the Voting Limitation;

PROPOSED RULE CHANGES

RESOLVED, that in connection with the Mergers, the resolutions set forth above shall be included in a proposed rule change filing (the "**Proposed Rule Changes**") of the Bats Exchanges to be filed with the Commission under Section 19(b) of the Exchange Act and Rule 19b-4 thereunder, and shall not be effective until the Proposed Rule Changes are filed with, and approved by, the Commission;

RESOLVED, that each executive officer of the Company (each, an "**Authorized Officer**") be, and hereby is, authorized and directed, in the name and on behalf of the Company, to file, or recommend that the Bats Exchanges file, the Proposed Rule Changes with the Commission, along with any such modifications, amendments, or supplements as any Authorized Officer shall approve;

CONSIDERATIONS

RESOLVED, that in connection with authorizing and approving each of the foregoing resolutions, the Board has given due regard to the preservation of the independence of the self-regulatory function of each Bats Exchange and to its obligations to investors and the general public, and determined that the actions to be taken pursuant to the foregoing resolutions do not interfere with the effectuation of decisions by the board of directors of each Exchange relating to its regulatory functions (including disciplinary matters) or would otherwise interfere with each Bats Exchange's ability to carry out its responsibilities under the Exchange Act; and

GENERAL

RESOLVED, that all actions heretofore taken by the Company and the Authorized Officers in connection with any matter referred to in any of the foregoing

resolutions are hereby approved, ratified and confirmed in all respects as fully as if such actions had been presented to this Board for its approval prior to such actions being taken.

Exhibit 5B

Note: All text is new.

SECOND AMENDED AND RESTATED

CERTIFICATE OF INCORPORATION

of

CBOE HOLDINGS, INC.

CBOE Holdings, Inc., a corporation organized under the laws of the State of Delaware (the "Corporation"), hereby certifies as follows:

1. The name of the Corporation is CBOE Holdings, Inc. The Corporation was incorporated on August 15, 2006.

2. This Second Amended and Restated Certificate of Incorporation has been duly adopted in accordance with Section 242 and Section 245 of the General Corporation Law of the State of Delaware (the "GCL"). This Second Amended and Restated Certificate of Incorporation restates, integrates and further amends the provisions of the Amended and Restated Certificate of Incorporation of the Corporation.

3. The text of the Second Amended and Restated Certificate of Incorporation as amended and restated shall read in full as follows:

FIRST: The name of the corporation is CBOE Holdings, Inc.

SECOND: The address of the registered office of the Corporation in the State of Delaware is Corporation Trust Center, 1209 Orange Street, in the City of Wilmington, County of New Castle, Delaware 19801. The name of the Corporation's registered agent at such address shall be The Corporation Trust Company.

THIRD: The nature of the business or purposes to be conducted or promoted by the Corporation is to engage in any lawful act or activity for which corporations may be organized under the GCL.

FOURTH: (a) *Authorized Stock*. The total number of shares of all classes of capital stock that the Corporation is authorized to issue is three hundred forty-five million (345,000,000) shares, of which:

(i) 325,000,000 shares shall be shares of Voting Common Stock, par value $.01 per share (the "Common Stock"); and

(ii) 20,000,000 shares shall be shares of preferred stock, par value $.01 per share (the "Preferred Stock").

(b) Common Stock. All shares of Common Stock shall have the same rights, powers and preferences.

(c) *Preferred Stock*. The Board of Directors of the Corporation (the "Board") is authorized, by resolution or resolutions, subject to any limitations prescribed by law, to provide for the issuance of shares of Preferred Stock in one or more series, and by filing a certificate of designations pursuant to the applicable law of the State of Delaware, to establish from time to time the number of shares to be included in each such series, and to fix the designation, powers, preferences, and rights of the shares of each such series and any qualifications, limitations or restrictions thereof, including without limitation the following:

(i) the distinctive serial designation of such series that shall distinguish it from other series;

(ii) the number of shares of such series, which number the Board may thereafter (except where otherwise provided in the certificate of designations) increase or decrease (but not below the number of shares of such series then outstanding);

(iii) whether dividends shall be payable to the holders of the shares of such series and, if so, the basis on which such holders shall be entitled to receive dividends (which may include, without limitation, a right to receive such dividends or distributions as may be declared on the shares of such series by the Board, a right to receive such dividends or distributions, or any portion or multiple thereof, as may be declared on the Common Stock or any other class of stock or, in addition to or in lieu of any other right to receive dividends, a right to receive dividends at a particular rate or at a rate determined by a particular method, in which case such rate or method of determining such rate may be set forth), the form of such dividend, any conditions on which such dividends shall be payable and the date or dates, if any, on which such dividends shall be payable;

(iv) whether dividends on the shares of such series shall be cumulative and, if so, the date or dates or method of determining the date or dates from which dividends on the shares of such series shall be cumulative;

(v) the amount or amounts, if any, which shall be payable out of the assets of the Corporation to the holders of the shares of such series upon the voluntary or involuntary liquidation, dissolution or winding-up of the Corporation, and the relative rights of priority, if any, of payment of the shares of such series;

(vi) the price or prices (in cash, securities or other property or a combination thereof) at which, the period or periods within which and the terms and conditions upon which the shares of such series may be redeemed, in whole or in part, at the option of the Corporation or at the option of the holder or holders thereof or upon the happening of a specified event or events;

(vii) the obligation, if any, of the Corporation to purchase or redeem shares of such series pursuant to a sinking fund or otherwise and the price or prices (in cash, securities or other property or a combination thereof) at which, the period or periods within which and the terms and conditions upon which the shares of such series shall be redeemed or purchased, in whole or in part, pursuant to such obligation;

(viii) whether or not the shares of such series shall be convertible or exchangeable, at any time or times at the option of the holder or holders thereof or at the option of the Corporation or upon the happening of a specified event or events, into shares of any other class or classes or any other series of the same or any other class or classes of stock of the Corporation or any other securities or property of the Corporation or any other entity, and the price or prices (in cash, securities or other property or a combination thereof) or rate or rates of conversion or exchange and any adjustments applicable thereto;

(ix) whether or not the holders of the shares of such series shall have voting rights, in addition to the voting rights required by law, and if so the terms of such voting rights, which may provide, among other things and subject to the other provisions of this Certificate of Incorporation, that each share of such series shall carry one vote or more or less than one vote per share, that the holders of such series shall be entitled to vote on certain matters as a separate class (which for such purpose may be comprised solely of such series or of such series and one or more other series or classes of stock of the Corporation); and

(x) any other relative rights, powers, preferences and limitations of this series.

For all purposes, this Certificate of Incorporation shall include each certificate of designations (if any) setting forth the terms of a series of Preferred Stock. Subject to the rights, if any, of the holders of any series of Preferred Stock set forth in a certificate of designations, an amendment of this Certificate of Incorporation to increase or decrease the number of authorized shares of Preferred Stock (but not below the number of shares thereof then outstanding) may be adopted by resolution adopted by the Board and approved by the affirmative vote of the holders of a majority of the votes entitled to be cast by the holders of the then-outstanding shares of stock of the Corporation entitled to vote thereon, and no vote of the holders of any series of Preferred Stock, voting as a separate class, shall be required therefor, unless a vote of any such holders is required pursuant to the terms of any Preferred Stock designation.

Except as otherwise required by law, holders of Common Stock, as such, shall not be entitled to vote on any amendment of this Certificate of Incorporation that alters or changes the powers, preferences, rights or other terms of one or more outstanding series of Preferred Stock if the holders of any such series are entitled, either separately or together with the holders of one or more other series of Preferred Stock, to vote thereon pursuant to this Certificate of Incorporation or the certificate of designations relating to such series of Preferred Stock, or pursuant to the GCL as then in effect.

FIFTH: (a) *Definitions*. As used in this Certificate of Incorporation:

(i) the term "Act" shall mean the Securities Exchange Act of 1934, as amended;

(ii) the term "beneficially owned" shall have the meaning set forth in Rule 13d‑3 and 13d-5 under the Act, as amended;

(iii) the term "CBOE" shall mean the Chicago Board Options Exchange, Incorporated;

(iv) the term "Person" shall mean an individual, partnership (general or limited), joint stock company, corporation, limited liability company, trust or unincorporated organization, or any governmental entity or agency or political subdivision thereof;

(v) the term "Regulated Securities Exchange Subsidiary" shall mean any national securities exchange controlled, directly or indirectly, by the Corporation, including, but not limited to CBOE; and

(vi) the term "Related Persons" shall mean (A) with respect to any Person, all "affiliates" (as such term is defined in Rule 12b‑2 under the Act) of such Person; (B) any Person associated with a member (as the phrase "Person associated with a member" is defined under Section 3(a)(21) of the Act); (C) any two or more Persons that have any agreement, arrangement or understanding (whether or not in writing) to act together for the purpose of acquiring, voting, holding or disposing of shares of the capital stock of the Corporation; (D) in the case of a Person that is a company, corporation or similar entity, any executive officer (as defined under Rule 3b‑7 of the Act) or director of such Person and, in the case of a Person that is a partnership or a limited liability company, any general partner, managing member or manager of such Person, as applicable; (E) in the case of a Person that is a natural person, any relative or spouse of such natural person, or any relative of such spouse who has the same home as such natural person or who is a director or officer of the Corporation or any of the Corporation's parents or subsidiaries; (F) in the case of a Person that is an executive officer (as defined under Rule 3b‑7 under the Act), or a director of a company, corporation or similar entity, such company, corporation or entity, as applicable; and (G) in the case of a Person that is a general partner, managing member or manager of a partnership or limited liability company, such partnership or limited liability, as applicable.

SIXTH: (a) *Voting Limitations*. Notwithstanding any other provision of this Certificate of Incorporation, (x) no Person, either alone or together with its Related Persons, as of any record date for the determination of stockholders entitled to vote on any matter, shall be entitled to vote or cause the voting of shares of stock of the Corporation, beneficially owned directly or indirectly by such Person or its Related Persons, in person or by proxy or through any voting agreement or other arrangement, to the extent that such shares represent in the aggregate more than 20% of the then outstanding votes entitled to be cast on such matter, without giving effect to this Article Sixth, and the Corporation shall disregard any such votes purported to be cast in excess of

such limitation; and (y) if any Person, either alone or together with its Related Persons, is party to any agreement, plan or other arrangement relating to shares of stock of the Corporation entitled to vote on any matter with any other Person, either alone or together with its Related Persons, under circumstances that would result in shares of stock of the Corporation that would be subject to such agreement, plan or other arrangement not being voted on any matter, or the withholding of any proxy relating thereto, where the effect of such agreement, plan or other arrangement would be to enable any Person with the right to vote any shares of stock of the Corporation, but for this Article Sixth, either alone or together with its Related Persons, to vote, possess the right to vote or cause the voting of shares of stock of the Corporation that would exceed 20% of the then outstanding votes entitled to be cast on such matter (assuming that all shares of stock of the Corporation that are subject to such agreement, plan or arrangement are not outstanding votes entitled to be cast on such matter) (the "Recalculated Voting Limitation"), then the Person with such right to vote shares of stock of the Corporation, either alone or together with its Related Persons, shall not be entitled to vote or cause the voting of shares of stock of the Corporation beneficially owned by such Person, either alone or together with its Related Persons, in person or by proxy or through any voting agreement or other arrangement, to the extent that such shares represent in the aggregate more than the Recalculated Voting Limitation, and the Corporation shall disregard any such votes purported to be cast in excess of the Recalculated Voting Limitation.

(i) The limitations set forth in this Section (a), as applicable, shall apply to each Person unless and until:

(A) such Person shall have delivered to the Corporation, not less than 45 days (or such shorter period as the Board shall expressly consent to) prior to any vote, a notice in writing, of such Person's intention, either alone or together with its Related Persons, to vote or cause the voting of shares of stock of the Corporation beneficially owned by such Person or its Related Persons, in person or by proxy or through any voting agreement or other arrangement, in excess of the such limitations, as applicable;

(B) the Board shall have resolved to expressly permit such voting; and

(C) such resolution shall have been filed with, and approved by, the Securities and Exchange Commission ("SEC") under Section 19(b) of the Act, and shall have become effective thereunder.

(ii) Subject to its fiduciary obligations under applicable law, the Board shall not adopt any resolution pursuant to clause (B) of Section (a)(i) of this Article Sixth unless the Board shall have determined that:

(A) the exercise of such voting rights or the entering into of such agreement, plan or other arrangement, as applicable, by such Person, either alone or together with its Related Persons, will not impair the ability of either the Corporation or any Regulated Securities Exchange Subsidiary to discharge its respective responsibilities under the Act and the rules and regulations thereunder and is otherwise in the best interests of the Corporation, its stockholders and the Regulated Securities Exchange Subsidiaries;

(B) the exercise of such voting rights or the entering into of such agreement, plan or other arrangement, as applicable, by such Person, either alone or together with its Related Persons, will not impair the SEC's ability to enforce the Act;

(C) in the case of a resolution to approve the exercise of voting rights in excess of 20% of the then outstanding votes entitled to be cast on such matter, (x) neither such Person nor any of its Related Persons is subject to any statutory disqualification (as defined in Section 3(a)(39) of the Act) and (y) for so long as the Corporation directly or indirectly controls any Regulated Securities Exchange Subsidiary, neither such Person nor any of its Related Persons is a "Trading Permit Holder" (as defined in the Bylaws of any Regulated Securities Exchange Subsidiary as they may be amended from time to time) (any such Person that is a Related Person of such Trading Permit Holder shall hereinafter also be deemed to be a Trading Permit Holder for purposes of this Certificate of Incorporation, as the context may require); and

(D) in the case of a resolution to approve the entering into of an agreement, plan or other arrangement under circumstances that would result in shares of stock of the Corporation that would be subject to such agreement, plan or other arrangement not being voted on any matter, or the withholding of any proxy relating thereto, where the effect of such agreement, plan or other arrangement would be to enable any Person, but for this Article Sixth, either alone or together with its Related Persons, to vote, possess the right to vote or cause the voting of shares of stock of the Corporation that would exceed 20% of the then outstanding votes entitled to be cast on such matter (assuming that all shares of stock of the Corporation that are subject to such agreement, plan or other arrangement are not outstanding votes entitled to be cast on such matter), (x) neither such Person nor any of its Related Persons is subject to any statutory disqualification (as defined in Section 3(a)(39) of the Act) and (y) for so long as the Corporation directly or indirectly controls any Regulated Securities Exchange Subsidiary, neither such Person nor any of its Related Persons is a Trading Permit Holder.

In making such determinations, the Board may impose such conditions and restrictions on such Person and its Related Persons owning any shares of stock of the Corporation entitled to vote on any matter as the Board may in its sole discretion deem necessary, appropriate or desirable in furtherance of the objectives of the Act and the governance of the Corporation.

(iii) If and to the extent that shares of stock of the Corporation beneficially owned by any Person or its Related Persons are held of record by any other Person, this Section (a) shall be enforced against such record owner by limiting the votes entitled to be cast by such record owner in a manner that will accomplish the limitations contained in this Section (a) applicable to such Person and its Related Persons.

(iv) The limitations set forth in the first paragraph of this Section (a) shall not apply to (x) any solicitation of any revocable proxy from any stockholder of the Corporation by or on behalf of the Corporation or by any officer or director of the Corporation acting on behalf of the Corporation or (y) any solicitation of any revocable proxy from any stockholder of the Corporation by any other stockholder that is conducted

pursuant to, and in accordance with, Regulation 14A promulgated pursuant to the Act (other than a solicitation pursuant to Rule 14a‑2(b)(2) promulgated under the Act, with respect to which this Section (a) of this Article Sixth shall apply).

(v) For purposes of this Section (a), no Person shall be deemed to have any agreement, arrangement or understanding to act together with respect to voting shares of stock of the Corporation solely because such Person or any of such Person's Related Persons has or shares the power to vote or direct the voting of such shares of stock as a result of (x) any solicitation of any revocable proxy from any stockholder of the Corporation by or on behalf of the Corporation or by any officer or director of the Corporation acting on behalf of the Corporation or (y) any solicitation of any revocable proxy from any stockholder of the Corporation by any other stockholder that is conducted pursuant to, and in accordance with, Regulation 14A promulgated pursuant to the Act (other than a solicitation pursuant to Rule 14a‑2(b)(2) promulgated under the Act, with respect to which this Section (a) of this Article Sixth shall apply), except if such power (or the arrangements relating thereto) is then reportable under Item 6 of Schedule 13D under the Act (or any similar provision of a comparable or successor report).

(b) *Ownership Concentration Limitation*. Except as otherwise provided in this Section (b), no Person, either alone or together with its Related Persons, shall be permitted at any time to beneficially own directly or indirectly shares of stock of the Corporation representing in the aggregate more than 20% of the then outstanding shares of stock of the Corporation (the "Ownership Limitation").

(i) The Ownership Limitation shall apply to each Person unless and until: (x) such Person shall have delivered to the Corporation not less than 45 days (or such shorter period as the Board shall expressly consent to) prior to the acquisition of any shares that would cause such Person (either alone or together with its Related Persons) to exceed the Ownership Limitation, a notice in writing, of such Person's intention to acquire such ownership; (y) the Board shall have resolved to expressly permit such ownership; and (z) such resolution shall have been filed with, and approved by, the SEC under Section 19(b) of the Act and shall have become effective thereunder.

(ii) Subject to its fiduciary obligations under applicable law, the Board shall not adopt any resolution permitting ownership in excess of the Ownership Limitation unless the Board shall have determined that:

(A) such acquisition of beneficial ownership by such Person, either alone or together with its Related Persons, will not impair the ability of any Regulated Securities Exchange Subsidiary to discharge its responsibilities under the Act and the rules and regulations thereunder and is otherwise in the best interests of the Corporation, its stockholders and the Regulated Securities Exchange Subsidiaries;

(B) such acquisition of beneficial ownership by such Person, either alone or together with its Related Persons, will not impair the SEC's ability to enforce the Act. In making such determinations under clauses (A) and (B) of this Section (b)(ii), the Board may impose such conditions and restrictions on such Person and its Related Persons

owning any shares of stock of the Corporation entitled to vote on any matter as the Board may in its sole discretion deem necessary, appropriate or desirable in furtherance of the objectives of the Act and the governance of the Corporation;

(C) neither such Person nor any of its Related Persons is subject to any statutory disqualification (as defined in Section 3(a)(39) of the Act); and

(D) for so long as the Corporation directly or indirectly controls any Regulated Securities Exchange Subsidiary, neither such Person nor any of its Related Persons is a Trading Permit Holder.

(iii) Unless the conditions specified in Section (b)(i) of this Article Sixth are met, if any Person, either alone or together with its Related Persons, at any time beneficially owns shares of stock of the Corporation in excess of the Ownership Limitation, the Corporation shall be obligated to redeem promptly, at a price equal to the par value of such shares of stock and to the extent funds are legally available therefor, that number of shares of stock of the Corporation necessary so that such Person, together with its Related Persons, shall beneficially own directly or indirectly shares of stock of the Corporation representing in the aggregate no more than 20% of the then outstanding shares of the Corporation, after taking into account that such redeemed shares shall become treasury shares and shall no longer be deemed to be outstanding.

(c) *Redemptions*.

(i) In the event the Corporation shall redeem shares of stock (the "Redeemed Stock") of the Corporation pursuant to any provision of this Article Sixth, notice of such redemption shall be given by first class mail, postage prepaid, mailed not less than five business nor more than 60 calendar days prior to the redemption date, to the holder of the Redeemed Stock, at such holder's address as the same appears on the stock register of the Corporation. Each such notice shall state: (w) the redemption date; (x) the number of shares of Redeemed Stock to be redeemed; (y) the aggregate redemption price, which shall equal the aggregate par value of such shares; and (z) the place or places where such Redeemed Stock is to be surrendered for payment of the aggregate redemption price. Failure to give notice as aforesaid, or any defect therein, shall not affect the validity of the redemption of Redeemed Stock. From and after the redemption date (unless the Corporation shall default in providing funds for the payment of the redemption price), the shares of Redeemed Stock which have been redeemed as aforesaid shall become treasury shares and shall no longer be deemed to be outstanding, and all rights of the holder of such Redeemed Stock as a stockholder of the Corporation (except the right to receive from the Corporation the redemption price against delivery to the Corporation of evidence of ownership of such shares) shall cease.

(ii) If and to the extent that shares of stock of the Corporation beneficially owned by any Person or its Related Persons are held of record by any other Person, this Article Sixth shall be enforced against such record owner by requiring the redemption of shares of stock of the Corporation held by such record owner in accordance with this

Article Sixth, in a manner that will accomplish the Ownership Limitation applicable to such Person and its Related Persons.

(d) *Right to Information*. The Corporation shall have the right to require any Person and its Related Persons that the Board reasonably believes (x) to be subject to the limitations contained in Section (a) of this Article Sixth, (y) to beneficially own shares of stock of the Corporation entitled to vote on any matter in excess of the Ownership Limitation, or (z) to beneficially own an aggregate of 5% or more of the then outstanding shares of stock of the Corporation entitled to vote on any matter, which ownership such Person, either alone or together with its Related Persons, has not reported to the Corporation, to provide to the Corporation, upon the Corporation's request, complete information as to all shares of stock of the Corporation beneficially owned by such Person and its Related Persons and any other factual matter relating to the applicability or effect of this Article Sixth as may reasonably be requested of such Person and its Related Persons. Any constructions, applications or determinations made by the Board pursuant to this Article Sixth in good faith and on the basis of such information and assistance as was then reasonably available for such purpose shall be conclusive and binding upon the Corporation and its directors, officers and stockholders.

SEVENTH: (a) *Authority*. The governing body of the Corporation shall be the Board. The business and affairs of the Corporation shall be managed by or under the direction of the Board.

(b) *Number of Directors*. The Board shall consist of not less than 11 and not more than 23 directors, the exact number to be fixed in accordance with the Bylaws of the Corporation.

EIGHTH: No Person that is subject to any statutory disqualification (as defined in Section 3(a)(39) of the Act) may be a director or officer of the Corporation.

NINTH: *No Action by Written Consent*. Any action required or permitted to be taken by the stockholders of the Corporation must be effected at a duly called annual or special meeting of stockholders of the Corporation and may not be effected by any consent in writing by such stockholders.

TENTH: (a) The Corporation shall, to the fullest extent permitted by applicable law as it presently exists or may hereafter be amended, indemnify and hold harmless any Person (a "Covered Person") who was or is made or is threatened to be made a party or is otherwise involved in any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative (a "proceeding"), by reason of the fact that he or she is or was a director, officer or member of a committee of the Corporation, or, while a director or officer of the Corporation, is or was serving at the request of the Corporation as a director or officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise or non-profit entity, including service with respect to employee benefit plans, against all liability and loss suffered and expenses (including attorneys' fees), judgment, fines and amounts paid in settlement actually and reasonably incurred by such Covered Person in connection with a

proceeding. Notwithstanding the preceding sentence, except as otherwise provided in Section (c) of this Article Tenth, the Corporation shall be required to indemnify a Covered Person in connection with a proceeding (or part thereof) commenced by such Covered Person only if the commencement of such proceeding (or part thereof) by the Covered Person was authorized in the specific case by the Board.

(b) Expenses (including attorneys' fees) incurred by a Covered Person in defending a proceeding, including appeals, shall, to the extent not prohibited by law, be paid by the Corporation in advance of the final disposition of such proceeding; provided, however, that the Corporation shall not be required to advance any expenses to a Person against whom the Corporation directly brings an action, suit or proceeding alleging that such Person (1) committed an act or omission not in good faith or (2) committed an act of intentional misconduct or a knowing violation of law. Additionally, an advancement of expenses incurred by a Covered Person shall be made only upon delivery to the Corporation of an undertaking, by or on behalf of such Covered Person, to repay all amounts so advanced if it shall ultimately be determined by final judicial decision from which there is no further right to appeal or otherwise in accordance with Delaware law that such Covered Person is not entitled to be indemnified for such expenses under this Article Tenth.

(c) If a claim for indemnification (following the final disposition of such action, suit or proceeding) or advancement of expenses under this Article Tenth is not paid in full within thirty days after a written claim therefor by the Covered Person has been received by the Corporation, the Covered Person may file suit to recover the unpaid amount of such claim and, if successful in whole or in part, shall be entitled to be paid the expense of prosecuting such claim to the fullest extent permitted by law. In any action the Corporation shall have the burden of proving that the Covered Person is not entitled to the requested indemnification or advancement of expenses under applicable law.

(d) The provisions of this Article Tenth shall be deemed to be a contract between the Corporation and each Covered Person who serves in any such capacity at any time while this Article Tenth is in effect, and any repeal or modification of any applicable law or of this Article Tenth shall not affect any rights or obligations then existing with respect to any state of facts then or theretofore existing or any action, suit or proceeding theretofore or thereafter brought or threatened based in whole or in part upon any such state of facts.

(e) Persons not expressly covered by the foregoing provisions of this Article Tenth, such as those (x) who are or were employees or agents of the Corporation, or are or were serving at the request of the Corporation as employees or agents of another corporation, partnership, joint venture, trust or other enterprise, or (y) who are or were directors, officers, employees or agents of a constituent corporation absorbed in a consolidation or merger in which the Corporation was the resulting or surviving corporation, or who are or were serving at the request of such constituent corporation as directors, officers, employees or agents of another corporation, partnership, joint venture, trust or other enterprise, may be indemnified or advanced expenses to the extent authorized at any time or from time to time by the Board.

(f) The rights conferred on any Covered Person by this Article Tenth shall not be deemed exclusive of any other rights to which such Covered Person may be entitled by law or otherwise, and shall continue as to a Person who has ceased to be a director, officer, employee or agent and shall inure to the benefit of the heirs, executors and administrators of such Person.

(g) The Corporation's obligation, if any, to indemnify or to advance expenses to any Covered Person who was or is serving at its request as a director, officer, employee or agent of another corporation, partnership, joint venture, trust, enterprise or non-profit entity shall be reduced by any amount such Covered Person may collect as indemnification or advancement of expenses from such other corporation, partnership, joint venture, trust, enterprise or non-profit entity.

(h) Any repeal or modification of the foregoing provisions of this Article Tenth shall not adversely affect any right or protection hereunder of any Covered Person in respect of any act or omission occurring prior to the time of such repeal or modification.

(i) The Corporation may purchase and maintain insurance, at its expense, to protect itself and any director, manager, officer, trustee, employee or agent of the Corporation or another corporation, or of a partnership, limited liability company, joint venture, trust or other enterprise against any expense, liability or loss (as such terms are used in this Article Tenth), whether or not the Corporation would have the power to indemnify such Person against such expense, liability or loss under the GCL.

ELEVENTH: The Corporation reserves the right to amend this Certificate of Incorporation, and to change or repeal any provision of the Certificate of Incorporation, in the manner prescribed at the time by statute, and all rights conferred upon stockholders by such Certificate of Incorporation are granted subject to this reservation. For so long as this Corporation shall control, directly or indirectly, any Regulated Securities Exchange Subsidiary, before any amendment to or repeal of any provision of this Certificate of Incorporation shall be effective, such amendment or repeal shall be submitted to the board of directors of each Regulated Securities Exchange Subsidiary and if such amendment or repeal must be filed with or filed with and approved by the SEC, then such amendment or repeal shall not become effective until filed with or filed with and approved by the SEC, as the case may be.

TWELFTH: The Bylaws of the Corporation may be altered, amended or repealed, and new Bylaws may be adopted at any time, by the Board. Stockholders of the Corporation may alter, amend or repeal any Bylaw; provided that, in addition to any other vote which may be required by law, the affirmative vote of the holders of a majority of the votes entitled to be cast by the holders of the then-outstanding shares of capital stock of the Corporation entitled to vote generally in the election of directors, voting together as a single class, shall be required for the stockholders of the Corporation to adopt, alter, amend or repeal any provision of the Corporation's Bylaws. For so long as this Corporation shall control, directly or indirectly, any Regulated Securities Exchange Subsidiary, before any amendment to or repeal of any provision of the Corporation's

Bylaws shall be effective, such amendment or repeal shall be submitted to the board of directors of each Regulated Securities Exchange Subsidiary and if such amendment or repeal must be filed with or filed with and approved by the SEC, then such amendment or repeal shall not become effective until filed with or filed with and approved by the SEC, as the case may be.

THIRTEENTH: A director of the Corporation shall not be liable to the Corporation or its stockholders for monetary damages for breach of fiduciary duty as a director, except to the extent such exemption from liability or limitation thereof is not permitted under the GCL as the same exists or may hereafter be amended. Any amendment, modification or repeal of the foregoing sentence shall not adversely affect any right or protection of a director of the Corporation hereunder in respect of any act or omission occurring prior to the time of such amendment, modification or repeal.

FOURTEENTH: The Corporation, its directors, officers, agents and employees, irrevocably submit to the jurisdiction of the U.S. federal courts, the SEC, and the Regulated Securities Exchange Subsidiaries, for the purposes of any suit, action or proceeding pursuant to U.S. federal securities laws or the rules or regulations thereunder, commenced or initiated by the SEC arising out of, or relating to, the Regulated Securities Exchange Subsidiaries' activities (and shall be deemed to agree that the Corporation may serve as the U.S. agent for purposes of service of process in such suit, action or proceeding), and hereby waive, and agree not to assert by way of motion, as a defense or otherwise in any such suit, action or proceeding, any claims that they are not personally subject to the jurisdiction of the U.S. federal courts, the SEC, and the Regulated Securities Exchange Subsidiaries, that the suit, action or proceeding is an inconvenient forum or that the venue of the suit, action or proceeding is improper, or that the subject matter thereof may not be enforced in or by such courts or agency.

FIFTEENTH: To the fullest extent permitted by applicable law, all confidential information pertaining to the self-regulatory function of Regulated Securities Exchange Subsidiaries (including but not limited to disciplinary matters, trading data, trading practices and audit information) contained in the books and records of any Regulated Securities Exchange Subsidiary that shall come into the possession of the Corporation shall: (1) not be made available to any Persons (other than as provided in the next sentence) other than to those officers, directors, employees and agents of the Corporation that have a reasonable need to know the contents thereof; (2) be retained in confidence by the Corporation and the officers, directors, employees and agents of the Corporation; and (3) not be used for any commercial purposes. Notwithstanding the foregoing sentence, nothing in this Certificate of Incorporation shall be interpreted so as to limit or impede the rights of the SEC or any Regulated Securities Exchange Subsidiary to access and examine such confidential information pursuant to the federal securities laws and the rules and regulations thereunder, or to limit or impede the ability of any officers, directors, employees or agents of the Corporation to disclose such confidential information to the SEC or any Regulated Securities Exchange Subsidiary.

For so long as the Corporation directly or indirectly controls any Regulated Securities Exchange Subsidiary, the books, records, premises, officers, directors and

employees of the Corporation shall be deemed to be the books, records, premises, officers, directors and employees of the Regulated Securities Exchange Subsidiary for purposes of and subject to oversight pursuant to the Act, but only to the extent that such books, records, premises, officers, directors and employees of the Corporation relate to the business of such Regulated Securities Exchange Subsidiary. The books and records related to the business of a Regulated Securities Exchange Subsidiary shall be subject at all times to inspection and copying by the SEC and the Regulated Securities Exchange Subsidiary.

SIXTEENTH: (a) The Corporation shall comply with the federal securities laws and the rules and regulations thereunder and shall cooperate with the SEC, and each Regulated Securities Exchange Subsidiary pursuant to and to the extent of its regulatory authority, and shall take reasonable steps necessary to cause its agents to cooperate with the SEC and, where applicable, the Regulated Securities Exchange Subsidiaries pursuant to their regulatory authority, with respect to such agents' activities related to the Regulated Securities Exchange Subsidiaries. No stockholder, employee, former employee, beneficiary, customer, creditor, community or regulatory authority or member thereof shall have any rights against the Corporation or any director, officer or employee of the Corporation under this Section (a) of this Article Sixteenth.

(b) The Corporation shall take reasonable steps necessary to cause its directors, officers and employees, prior to accepting such a position with the Corporation, to consent in writing to the applicability to them of Article Fourteenth, Article Fifteenth and Sections (c) and (d) of this Article Sixteenth of this Certificate of Incorporation, as applicable, with respect to their activities related to any of the Regulated Securities Exchange Subsidiaries. In addition, the Corporation shall take reasonable steps necessary to cause its agents, prior to accepting such a position with the Corporation, to be subject to the provisions of Article Fourteenth, Article Fifteenth and Sections (c) and (d) of this Article Sixteenth of this Certificate of Incorporation, as applicable, with respect to their activities related to any of the Regulated Securities Exchange Subsidiaries.

(c) For so long as the Corporation shall control, directly or indirectly, any Regulated Securities Exchange Subsidiary, each officer, director and employee of the Corporation shall give due regard to the preservation of the independence of the self regulatory function of the Regulated Securities Exchange Subsidiaries and to each of the Regulated Securities Exchange Subsidiaries' obligations under the Act, and the rules thereunder including, without limitation, Section 6(b) of the Act and shall not take any actions which he or she knows or reasonably should have known would interfere with the effectuation of any decisions by the board of directors of any Regulated Securities Exchange Subsidiary relating to such Regulated Securities Exchange Subsidiary's regulatory functions (including disciplinary matters) or which would adversely affect the ability of the Regulated Securities Exchange Subsidiary to carry out such Regulated Securities Exchange Subsidiary's responsibilities under the Act.

(d) In discharging his or her responsibilities as a member of the Board, each director shall take into consideration the effect that the Corporation's actions would have on the ability of each Regulated Securities Exchange Subsidiary to carry out its

responsibilities under the Act and on the ability of each Regulated Securities Exchange Subsidiary and the Corporation: to engage in conduct that fosters and does not interfere with each Regulated Securities Exchange Subsidiary's and the Corporation's ability to prevent fraudulent and manipulative acts and practices; to promote just and equitable principles of trade; to foster cooperation and coordination with Persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities; to remove impediments to and perfect the mechanisms of a free and open market and a national market system; and, in general, to protect investors and the public interest. In discharging his or her responsibilities as a member of the Board or as an officer or employee of the Corporation, each such director, officer or employee shall comply with the federal securities laws and the rules and regulations thereunder and shall cooperate with the SEC, and each Regulated Securities Exchange Subsidiary pursuant to its regulatory authority.

SEVENTEENTH: Unless and except to the extent that the Bylaws of the Corporation shall so require, the election of directors of the Corporation need not be by written ballot.

IN WITNESS WHEREOF, CBOE Holdings, Inc. has caused this certificate to be signed as of this 15th day of December, 2015.

CBOE HOLDINGS, INC.

/s/ Edward L. Provost

Name: Edward L. Provost
Its: President and Chief Operating Officer

Exhibit 5C

Note: All text is new.

THIRD AMENDED AND RESTATED BYLAWS

of

CBOE HOLDINGS, INC.

ARTICLE 1
OFFICES

1.1 *Registered Offices*. The registered office of CBOE Holdings, Inc. (the "Corporation") in the State of Delaware shall be located at Corporation Trust Center, 1209 Orange Street, in the City of Wilmington, County of New Castle, Delaware 19805. The name of the Corporation's registered agent at such address shall be The Corporation Trust Company. The registered office and/or registered agent of the Corporation may be changed from time to time by action of the Board of Directors of the Corporation (the "Board of Directors").

1.2 *Other Offices*. The Corporation may also have offices at such other places both within and without the State of Delaware as the Board of Directors may from time to time determine or the business of the Corporation may require.

1.3 *Books*. The books of the Corporation may be kept within or without the State of Delaware as the Board of Directors may from time to time determine or the business of the Corporation may require, provided such books and records are kept within the United States.

ARTICLE 2
STOCKHOLDERS

2.1 *Place of Meetings*. All meetings of stockholders shall be held at such place, if any, within or without the State of Delaware as may be designated from time to time by the Board of Directors or the Chairman of the Board (or, if there is no Chairman of the Board, the Chief Executive Officer) or, if not so designated, at the principal place of business of the Corporation in Chicago, Illinois.

2.2 *Annual Meeting*. The annual meeting of stockholders for the election of directors and for the transaction of such other business as may properly be brought before the meeting shall be held on such date and at such time and at such place, if any, within or without the State of Delaware as shall be fixed by the Board of Directors, pursuant to a resolution adopted by the affirmative vote of a majority of the total number of directors then in office, or the Chairman of the Board (or, if there is no Chairman of the Board, the Chief Executive Officer) and stated in the notice of the meeting. If no annual meeting is

held in accordance with the foregoing provisions, the Board of Directors shall cause the meeting to be held as soon thereafter as convenient. If no annual meeting is held in accordance with the foregoing provisions, a special meeting may be held in lieu of the annual meeting, and any action taken at that special meeting shall have the same effect as if it had been taken at the annual meeting, and in such case all references in these Bylaws to the annual meeting of stockholders shall be deemed to refer to such special meeting.

2.3 *Special Meeting*. Special meetings of stockholders may be called at any time by only the Chairman of the Board, the Chief Executive Officer, the President or the Board of Directors pursuant to a resolution adopted by the affirmative vote of a majority of the total number of directors then in office. Special meetings may not be called by any other person or persons. Any business transacted at any special meeting of stockholders shall be limited to matters relating to the purpose or purposes stated in the notice of meeting.

2.4 *Notice of Meetings*. Except as otherwise provided by law, the Certificate of Incorporation or these Bylaws, notice of each meeting of stockholders, whether annual or special, shall be given in any manner permitted by law not less than ten (10) nor more than sixty (60) days before the date of the meeting to each stockholder as of the record date for determining the stockholders entitled to notice of the meeting. The notices of all meetings shall state the place, if any, date and hour of the meeting, the means of remote communications, if any, by which stockholders and proxy holders may be deemed to be present in person and vote at such meeting, and the record date for determining the stockholders entitled to vote at the meeting (if such date is different from the record date for stockholders entitled to notice of the meeting). The notice of a special meeting shall state, in addition, the purpose or purposes for which the meeting is called.

2.5 *Voting List*. The officer who has charge of the stock ledger shall prepare and make, at least ten (10) days before every meeting of stockholders, a complete list of the stockholders entitled to vote at the meeting (provided, however, if the record date for determining the stockholders entitled to vote is less than ten (10) days before the date of the meeting, the list shall reflect the stockholders entitled to vote as of the tenth day before the meeting date), arranged in alphabetical order, and showing the address of each stockholder and the number of shares registered in the name of each stockholder. Such list shall be open to the examination of any stockholder, for any purpose germane to the meeting, at least ten (10) days prior to the meeting (i) on a reasonably accessible electronic network, provided that the information required to gain access to such list is provided with the notice of meeting or (ii) during ordinary business hours, at the principal place of business of the Corporation. The list of stockholders must also be open to examination at the meeting as required by applicable law. Except as otherwise provided by law, the stock ledger shall be the only evidence as to who are the stockholders entitled to examine the list of stockholders required by this Section 2.5 or to vote in person or by proxy at any meeting of stockholders.

2.6 *Quorum*. Except as otherwise provided by law, the Certificate of Incorporation or these Bylaws, the holders of a majority in voting power of the shares of the capital stock of the Corporation issued and outstanding and entitled to vote at the

meeting (after taking into account the effect of any reduction of the number of shares entitled to vote as a result of the voting limitations imposed by Article Sixth of the Corporation's Certificate of Incorporation, if any), present in person or represented by proxy, shall constitute a quorum for the transaction of business.

2.7 *Adjournments*. Any meeting of stockholders may be adjourned to any other time and to any other place at which a meeting of stockholders may be held under these Bylaws by the holders of a majority in voting power of the stockholders present or represented at the meeting and entitled to vote, although less than a quorum, or by any officer entitled to preside at or to act as secretary of such meeting. Notice need not be given of any such adjourned meeting if the time and place thereof are announced at the meeting at which the adjournment is taken. If the adjournment is for more than thirty (30) days, a notice of the adjourned meeting shall be given to each stockholder of record entitled to vote at the meeting. If after the adjournment a new record date for determination of stockholders entitled to vote is fixed for the adjourned meeting, the Board of Directors shall fix as the record date for determining stockholders entitled to notice of such adjourned meeting the same or an earlier date as that fixed for determination of stockholders entitled to vote at the adjourned meeting, and shall give notice of the adjourned meeting to each stockholder of record as of the record date so fixed for notice of such adjourned meeting.

2.8 *Voting*. Except as otherwise provided by the General Corporation Law of the State of Delaware ("DGCL"), the Certificate of Incorporation or these Bylaws, each stockholder shall have one vote for each share of capital stock entitled to vote and held of record by such stockholder.

2.9 *Proxy Representation*. Every stockholder may authorize another person or persons to act for such stockholder by proxy in all matters in any manner permitted by law. No proxy shall be voted or acted upon after three years from its date unless the proxy provides for a longer period. A duly executed proxy shall be irrevocable if it states that it is irrevocable and if, and only as long as, it is coupled with an interest sufficient in law to support an irrevocable power. A proxy may be made irrevocable regardless of whether the interest with which it is coupled is an interest in the stock itself or an interest in the Corporation generally. The authorization of a proxy may but need not be limited to specified action, provided, however, that if a proxy limits its authorization to a meeting or meetings of stockholders, unless otherwise specifically provided such proxy shall entitle the holder thereof to vote at any adjourned session but shall not be valid after the final adjournment thereof. A proxy purporting to be authorized by or on behalf of a stockholder, if accepted by the Corporation in its discretion, shall be deemed valid unless challenged at or prior to its exercise, and the burden of proving invalidity shall rest on the challenger. A stockholder may revoke any proxy which is not irrevocable by attending the meeting and voting in person or by delivering to the Secretary of the Corporation a revocation of the proxy or a new proxy bearing a later date.

2.10 *Action at Meeting*. When a quorum is present at any meeting, (a) a majority of the votes properly cast upon any question other than an election of directors shall decide the question, except when a different vote is required by the Certificate of

Incorporation, these Bylaws, the rules or regulations of any stock exchange applicable to the Corporation, or any law or regulation applicable to the Corporation or its securities, and (b) each nominee for director shall be elected to the Board of Directors if a majority of the votes properly cast are in favor of such nominee's election (i.e., if the number of votes properly cast "for" a nominee's election exceeds the number of votes properly cast "against" that nominee's election (with "abstentions" and "broker nonvotes" not counted as a vote cast either "for" or "against" that director's election)); provided, however, that, if, as of the last date by which stockholders of the Corporation may submit notice to nominate a person for election as a director pursuant to Section 2.11 of these Bylaws or pursuant to any rule or regulation of the Securities and Exchange Commission, the number of nominees for director exceeds the number of directors to be elected at any such meeting (a "Contested Election"), a plurality of the votes properly cast for the election of directors shall be sufficient to elect directors. No ballot shall be required for any election unless requested by a stockholder present or represented at the meeting and entitled to vote in the election.

2.11 *Nomination of Directors*. Only persons who are nominated in accordance with the following procedures shall be eligible for election as directors. The nomination for election to the Board of Directors at an annual meeting of stockholders may be made only (A) pursuant to the Corporation's notice of meeting (or any supplement thereto), (B) by the Board of Directors, any committee thereof or (C) by any stockholder (i) who is a stockholder of record on the date of the notice given pursuant to this Section 2.11 and who is entitled to vote at the annual meeting and (ii) who complies with the notice procedures set forth in this Section 2.11. Such nominations, other than those made by or on behalf of the Board of Directors or any committee thereof, shall be made by notice in writing to the Secretary and received at the principal executive offices of the Corporation not less than ninety (90) days nor more than one hundred twenty (120) days prior to the anniversary date of the immediately preceding annual meeting of stockholders; provided, however, that if the annual meeting is not held within thirty (30) days before or more than seventy (70) days after such anniversary date, then such nomination shall have been delivered to or mailed and received by the Secretary not later than the close of business on the 10th day following the date on which public announcement of the annual meeting date was made. In no event shall the public announcement of an adjournment or postponement of an annual meeting commence a new time period (or extend any time period) for the giving of a stockholder's notice as described above. Such notice shall set forth (a) as to each proposed nominee (i) the name, age, business address and residence address of such nominee, (ii) the principal occupation or employment of such nominee, (iii) the number of shares of stock of the Corporation which are owned beneficially and the number of shares of stock of the Corporation which are held of record by such nominee, and (iv) any other information concerning the nominee that must be disclosed as to nominees in proxy solicitations pursuant to Regulation 14A under the Securities Exchange Act of 1934, as amended (the "Act"), and the rules and regulations promulgated thereunder, including such person's written consent to be named in the proxy statement as a nominee and to serve as a director if elected ; and (b) as to the stockholder giving the notice and the beneficial owner, if any, on whose behalf the nomination is made (i) the name and address of such stockholder, as they appear on the

Corporation's books, and of such beneficial owner, (ii) the class and number of shares of capital stock of the Corporation which are owned beneficially and of record by such stockholder and such beneficial owner, (iii) a description of any agreement, arrangement or understanding with respect to the nomination between or among such stockholder and/or such beneficial owner, any of their respective affiliates or associates, and any others acting in concert with any of the foregoing, including any nominee, (iv) a description of any agreement, arrangement or understanding (including any derivative or short positions, profit interests, options, warrants, convertible securities, stock appreciation or similar rights, hedging transactions, and borrowed or loaned shares) that has been entered into as of the date of the stockholder's notice by, or on behalf of, such stockholder and such beneficial owners, whether or not such instrument or right shall be subject to settlement in underlying shares of capital stock of the Corporation, the effect or intent of which is to mitigate loss to, manage risk or benefit of share price changes for, or increase or decrease the voting power of, such stockholder or such beneficial owner, with respect to shares of capital stock of the Corporation, (v) a representation that the stockholder is a holder of record of stock of the Corporation entitled to vote at such meeting and intends to appear in person or by proxy at the meeting to propose such nomination, (vi) a representation whether the stockholder or the beneficial owner, if any, intends or is part of a group which intends (a) to deliver a proxy statement and/or form of proxy to holders of at least the percentage of the Corporation's outstanding capital stock required to elect the nominee and/or (b) otherwise to solicit proxies or votes from stockholders in support of such nomination, and (vii) any other information relating to such stockholder and beneficial owner, if any, required to be disclosed in a proxy statement or other filings required to be made in connection with solicitations of proxies for, as applicable, the proposal and/or for the election of directors in an election contest pursuant to and in accordance with Section 14(a) of the Exchange Act and the rules and regulations promulgated thereunder. The Corporation may require any proposed nominee to furnish such other information as the Corporation may reasonably require to determine the eligibility of such proposed nominee to serve as a director of the Corporation.

The chairman of the meeting may, if the facts warrant, determine that a nomination was not made in accordance with the foregoing procedure, and, if he or she should so determine, he or she shall so declare to the meeting, and the defective nomination shall be disregarded.

2.12 *Notice of Business at Annual Meetings*. At an annual meeting of the stockholders, only such business shall be conducted as shall have been properly brought before the meeting. To be properly brought before an annual meeting, business must be (a) specified in the notice of meeting (or any supplement thereto) given by or at the direction of the Board of Directors, (b) otherwise properly brought before the meeting by or at the direction of the Board of Directors (or any committee thereof), or (c) otherwise properly brought before an annual meeting by a stockholder (i) who is a stockholder of record on the date of the giving of notice provided for in this Section 2.12 and entitled to vote at such annual meeting, and (ii) who complies with the notice procedures set forth in this Section 2.12. For business to be properly brought before an annual meeting by a stockholder, if such business relates to the election of directors of the Corporation, the

procedures in Section 2.11 must be complied with. If such business relates to any other matter, the stockholder must have given timely notice thereof in writing to the Secretary. To be timely, a stockholder's notice must be delivered to or mailed to the Secretary and received at the principal executive offices of the Corporation not less than ninety (90) days nor more than one hundred twenty (120) days prior to the anniversary date of the immediately preceding annual meeting of stockholders; provided, however, that if the annual meeting is not held within thirty (30) days before or seventy (70) days after such anniversary date, then for the notice by the stockholder to be timely it must be so received not later than the close of business on the 10th day following the date on which public announcement of the annual meeting date was made. In no event shall the public announcement of an adjournment or postponement of an annual meeting commence a new time period (or extend any time period) for the giving of a stockholder's notice as described above. To be in proper written form, a stockholder's notice to the Secretary shall set forth (a) as to any business (other than nominations for the election of directors) that the stockholder proposes to bring before the meeting, a brief description of the business desired to be brought before the meeting, the text of the proposal or business (including the text of any resolutions proposed for consideration and, in the event that such business includes a proposal to amend the Bylaws of the Corporation, the language of the proposed amendment), the reasons for conducting such business at the meeting and any material interest in such business of such stockholder and the beneficial owner, if any, on whose behalf the proposal is made; and (b) as to the stockholder giving the notice and the beneficial owner, if any, on whose behalf the proposal is made (i) the name and address of such stockholder, as they appear on the Corporation's books, and of such beneficial owner, (ii) the class and number of shares of capital stock of the Corporation which are owned beneficially and of record by such stockholder and such beneficial owner, (iii) a description of any agreement, arrangement or understanding with respect to the proposal between or among such stockholder and/or such beneficial owner, any of their respective affiliates or associates, and any others acting in concert with any of the foregoing, (iv) a description of any agreement, arrangement or understanding (including any derivative or short positions, profit interests, options, warrants, convertible securities, stock appreciation or similar rights, hedging transactions, and borrowed or loaned shares) that has been entered into as of the date of the stockholder's notice by, or on behalf of, such stockholder and such beneficial owners, whether or not such instrument or right shall be subject to settlement in underlying shares of capital stock of the Corporation, the effect or intent of which is to mitigate loss to, manage risk or benefit of share price changes for, or increase or decrease the voting power of, such stockholder or such beneficial owner, with respect to shares of capital stock of the Corporation, (v) a representation that the stockholder is a holder of record of stock of the Corporation entitled to vote at such meeting and intends to appear in person or by proxy at the meeting to propose such business, and (vi) a representation whether the stockholder or the beneficial owner, if any, intends or is part of a group which intends (a) to deliver a proxy statement and/or form of proxy to holders of at least the percentage of the Corporation's outstanding capital stock required to approve or adopt the proposal and/or (b) otherwise to solicit proxies or votes from stockholders in support of such proposal. Notwithstanding anything in these Bylaws to the contrary, no business shall be conducted at any annual meeting except in accordance with the procedures set forth in Section 2.11

or this Section 2.12, except that any stockholder proposal which complies with Rule 14a‑8 of the proxy rules, or any successor provision, promulgated under the Act, and is to be included in the Corporation's proxy statement for an annual meeting of stockholders shall be deemed to comply with the requirements of this Section 2.12. Notwithstanding the foregoing provisions of this Section 2.12 or Section 2.11, unless otherwise required by law, if the stockholder (or a qualified representative of the stockholder) does not appear at the annual or special meeting of stockholders of the Corporation to present a nomination or proposed business, such nomination may be disregarded and such proposed business need not be transacted, notwithstanding that proxies in respect of such vote may have been received by the Corporation. For purposes of this Section 2.12 and Section 2.11, to be considered a qualified representative of the stockholder, a person must be a duly authorized officer, manager or partner of such stockholder or must be authorized by a writing executed by such stockholder or an electronic transmission delivered by such stockholder to act for such stockholder as proxy at the meeting of stockholders and such person must produce such writing or electronic transmission, or a reliable reproduction of the writing or electronic transmission, at the meeting of stockholders.

For purposes of Section 2.11 and Section 2.12, "public announcement" shall include disclosure in a press release reported by the Dow Jones News Service, Associated Press or comparable national news service or in a document publicly filed by the Corporation with the Securities and Exchange Commission pursuant to Section 13, 14 or 15(d) of the Act. Notwithstanding the foregoing provisions in Section 2.11 or Section 2.12, a stockholder shall also comply with all applicable requirements of the Act and the rules and regulations thereunder with respect to the matters set forth in this Section 2.11 and Section 2.12. Nothing in either Section 2.11 or Section 2.12 shall be deemed to affect any rights (a) of stockholders to request inclusion of proposals or nominations in the Corporation's proxy statement pursuant to applicable rules and regulations promulgated under the Act or (b) of the holders of any series of Preferred Stock to elect directors pursuant to any applicable provisions of the Certificate of Incorporation.

The chairman of the meeting shall, if the facts warrant, determine that business was not properly brought before the meeting in accordance with the provisions of this Section 2.12, and, if he or she should so determine, the chairman shall so declare to the meeting, and any such business not properly brought before the meeting shall not be transacted.

2.13 *Action without Meeting*. Stockholders may not take any action by written consent in lieu of a meeting.

2.14 *Organization*. The Chairman of the Board, or in the Chairman of the Board's absence, the Chief Executive Officer or President, shall call meetings of the stockholders to order and act as chairman of such meeting; provided, however, that the Board of Directors may appoint any stockholder to act as chairman of any meeting in the absence of the Chairman of the Board. The Secretary of the Corporation shall act as secretary at all meetings of the stockholders; provided, however, that in the absence of

the Secretary at any meeting of the stockholders, the chairman of such meeting may appoint any person to act as secretary of the meeting.

2.15 *Inspectors of Election*. The Corporation may, and shall if required by law, in advance of any meeting of stockholders, appoint one or more inspectors of election, who may be employees of the Corporation, to act at the meeting or any adjournment thereof and to make a written report thereof. The Corporation may designate one or more persons as alternate inspectors to replace any inspector who fails to act. In the event that no inspector so appointed or designated is able to act at a meeting of stockholders, the person presiding at the meeting shall appoint one or more inspectors to act at the meeting. Each inspector, before entering upon the discharge of his or her duties, shall take and sign an oath to execute faithfully the duties of inspector with strict impartiality and according to the best of his or her ability. The inspector or inspectors so appointed or designated shall (i) ascertain the number of shares of capital stock of the Corporation outstanding and the voting power of each such share, (ii) determine the shares of capital stock of the Corporation represented at the meeting and the validity of proxies and ballots, (iii) count all votes and ballots, (iv) determine and retain for a reasonable period a record of the disposition of any challenges made to any determination by the inspectors, and (v) certify their determination of the number of shares of capital stock of the Corporation represented at the meeting and such inspectors' count of all votes and ballots. Such certification and report shall specify such other information as may be required by law. In determining the validity and counting of proxies and ballots cast at any meeting of stockholders of the Corporation, the inspectors may consider such information as is permitted by applicable law. No person who is a candidate for an office at an election may serve as an inspector at such election.

2.16 *Conduct of Meetings*. The date and time of the opening and the closing of the polls for each matter upon which the stockholders will vote at a meeting shall be announced at the meeting by the person presiding over the meeting. The Board of Directors may adopt by resolution such rules and regulations for the conduct of the meeting of stockholders as it shall deem appropriate. Except to the extent inconsistent with such rules and regulations as adopted by the Board of Directors, the person presiding over any meeting of stockholders shall have the right and authority to convene and to adjourn the meeting, to prescribe such rules, regulations and procedures and to do all such acts as, in the judgment of such presiding person, are appropriate for the proper conduct of the meeting. Such rules, regulations or procedures, whether adopted by the Board of Directors or prescribed by the presiding person of the meeting, may include, without limitation, the following: (i) the establishment of an agenda or order of business for the meeting; (ii) rules and procedures for maintaining order at the meeting and the safety of those present; (iii) limitations on attendance at or participation in the meeting to stockholders of record of the Corporation, their duly authorized and constituted proxies or such other persons as the presiding person of the meeting shall determine; (iv) restrictions on entry to the meeting after the time fixed for the commencement thereof; and (v) limitations on the time allotted to questions or comments by participants. The presiding person at any meeting of stockholders, in addition to making any other determinations that may be appropriate to the conduct of the meeting, shall, if the facts

warrant, determine and declare to the meeting that a matter or business was not properly brought before the meeting and if such presiding person should so determine, such presiding person shall so declare to the meeting and any such matter or business not properly brought before the meeting shall not be transacted or considered. Unless and to the extent determined by the Board of Directors or the person presiding over the meeting, meetings of stockholders shall not be required to be held in accordance with the rules of parliamentary procedure.

ARTICLE 3
DIRECTORS

3.1 *General Powers*. The business and affairs of the Corporation shall be managed by or under the direction of a Board of Directors, who may exercise all of the powers of the Corporation except as otherwise provided by law, the Certificate of Incorporation or these Bylaws. In the event of a vacancy in the Board of Directors, the remaining directors, except as otherwise provided by law, may exercise the powers of the full Board of Directors until the vacancy is filled.

3.2 *Number; Election; Qualification and Term of Office*. The Board of Directors of the Corporation shall consist of not less than 11 and not more than 23 directors, the exact number to be fixed by the Board of Directors from time to time pursuant to resolution adopted by the Board.

Directors shall be elected annually and shall hold office until the next annual meeting and until such time as their successors are elected or appointed and qualified, except in the event of earlier death, resignation or removal.

3.3 *Independent Directors*. At all times no less than two-thirds of the members of the Board of Directors shall satisfy the independence requirements adopted by the Board of Directors for directors of the Corporation, as may be modified and amended by the Board of Directors from time to time, and which shall satisfy the independence requirements contained in the listing standards of either the New York Stock Exchange or The NASDAQ Stock Market.

3.4 *Resignations*. A director may resign at any time by giving written or electronic notice of his resignation to the Chairman of the Board or the Secretary, and such resignation will be effective when delivered unless the resignation specifies a later effective date or an effective date determined upon the happening of an event or events.

3.5 *Vacancies*. Any vacancy in the Board of Directors, however occurring, including a vacancy resulting from an increase in the number of the directors, may be filled by vote of a majority of the directors then in office, although less than a quorum, or by a sole remaining director. A director elected to fill a vacancy shall hold office until the next annual meeting of stockholders, subject to the election and qualification of his successor and to his earlier death, resignation or removal.

3.6 *Chairman of the Board*. The Board of Directors shall appoint one of the directors to serve as Chairman of the Board. Except as provided for in Section 3.7 hereof, the Chairman of the Board shall be the presiding officer at all meetings of the Board of Directors and stockholders and shall exercise such other powers and perform such other duties as are delegated to the Chairman of the Board by the Board of Directors.

3.7 *Lead Director*. The Board of Directors may appoint one of the independent directors to serve as the Lead Director. The Lead Director shall perform such duties and possess such powers as the Board of Directors may from time to time prescribe. The Lead Director, if appointed, shall be authorized to preside at meetings of the non-management directors and at meetings of the independent directors of the Board of Directors.

3.8 *Acting Chairman and Vacancy in Chairman of the Board Position*. (a) In the absence or inability to act of the Chairman of the Board, the Board may designate an Acting Chairman of the Board.

The Acting Chairman of the Board, in the absence or inability to act of the Chairman, shall be presiding officer at all meetings of the Board of Directors and shall exercise such other powers and perform such other duties as are delegated to the Acting Chairman by the Board of Directors. The Acting Chairman of the Board may be, but need not be, the same person as the Lead Director.

(b) If a vacancy occurs in the office of Chairman, the Board may fill such vacancy by the affirmative vote of at least a majority of the directors then in office.

3.9 *Regular Meetings*. Regular meetings of the Board of Directors shall be held at such time and at such place as shall be determined by the Chairman of the Board with notice of such determination provided to the full the Board of Directors.

3.10 *Special Meetings*. Special meetings of the Board of Directors may be called by the Chairman of the Board or the Chief Executive Officer and shall be called by the Secretary upon the written request of any four directors. The Secretary shall give at least 24 hours notice of such meeting to each director, either in person, by mail, messenger, overnight courier, facsimile machine, electronic mail or telephone. Every such notice shall state the time and place of the meeting which shall be fixed by the person calling the meeting, but need not state the purpose thereof except as otherwise required by statute.

3.11 *Participation in Meetings*. Except as otherwise provided by law, the Certificate of Incorporation or these Bylaws, the Board of Directors or any members of any committee of the Board of Directors designated by the directors may participate in a meeting of the Board of Directors or such committee by means of conference telephone or other communications equipment by means of which all persons participating in the meeting can hear each other. Participation by such means shall constitute presence in person at such meeting.

3.12 *Action at Meeting*. Except as otherwise provided by law, the Certificate of Incorporation or these Bylaws, at each meeting of the Board of Directors, a whole number of directors equal to at least a majority of the total number of directors constituting the entire Board of Directors shall constitute a quorum for the transaction of business. Except as otherwise provided by law, the Certificate of Incorporation or these Bylaws, at any meeting of the Board of Directors at which a quorum is present, the vote of a majority of the directors present shall be sufficient to take any action, unless a different vote is specified by law, the Certificate of Incorporation or these Bylaws.

3.13 *Action by Consent*. Any action required or permitted to be taken at any meeting of the Board of Directors or of any committee of the Board of Directors may be taken without a meeting, if all members of the Board of Directors or committee, as the case may be, consent to the action in writing or by electronic transmission, and the writing or writings or electronic transmissions are filed with the minutes of proceedings of the Board of Directors or committee of the Board of Directors, as applicable.

3.14 *Compensation of Directors*. The directors may be paid such compensation for their services and such reimbursement for expenses of attendance at meetings as the Board of Directors may from time to time determine. No such payment shall preclude any director from serving the Corporation or any of its parent or subsidiary corporations in any other capacity and receiving compensation for such service.

ARTICLE 4
COMMITTEES

4.1 *Designation of Committees*. The committees of the Board of Directors shall consist of an Executive Committee, an Audit Committee, a Compensation Committee, a Nominating and Governance Committee and such other standing and special committees as may be approved by the Board of Directors. The Corporation shall have such other committees as may be provided in these Bylaws or as may be from time to time appointed by the Board of Directors. The Board of Directors shall designate the members of these other committees and may designate a Chairman and a Vice-Chairman thereof.

4.2 *The Executive Committee*. The Executive Committee will include the Chairman of the Board, the Chief Executive Officer (if a director), the Lead Director, if any, and such other number of directors that the Board of Directors deems appropriate, provided that at all times the majority of the directors serving on the Executive Committee must be independent directors. Members of the Executive Committee (other than those specified in the immediately preceding sentence) shall be recommended by the Nominating and Governance Committee for approval by the Board of Directors. Members of the Executive Committee shall not be subject to removal except by the Board of Directors. The Chairman of the Board shall be the Chairman of the Executive Committee. Each member of this Committee shall be a voting member. The Executive Committee shall have and may exercise all the powers and authority of the Board of Directors in the management of the business and affairs of the Corporation, except it shall not have the power and authority of the Board of Directors to (i) approve or adopt or

recommend to the stockholders, any action or matter (other than the election or removal of directors) expressly required by Delaware law to be submitted to stockholders for approval, including, without limitation, amending the Certificate of Incorporation, adopting an agreement of merger or consolidation, approving a sale, lease or exchange of all or substantially all of the Corporation's property and assets, or approval of a dissolution of the Corporation or revocation of a dissolution, or (ii) adopt, alter, amend or repeal any Bylaw of the Corporation.

4.3 *The Audit Committee*. The Audit Committee shall consist of at least three directors, all of whom must be independent directors and all of whom shall be recommended by the Nominating and Governance Committee for approval by the Board of Directors. The exact number of Audit Committee members shall be determined from time to time by the Board of Directors. Members of the Audit Committee shall not be subject to removal except by the Board of Directors. The Chairman of the Audit Committee shall be recommended by the Nominating and Governance Committee for approval by the Board of Directors. The Audit Committee shall have such duties and may exercise such authority as may be prescribed by resolution of the Board of Directors and the Audit Committee Charter as adopted by resolution of the Board of Directors.

4.4 *The Compensation Committee*. The Compensation Committee shall consist of at least three directors, all of whom must be independent directors and all of whom shall be recommended by the Nominating and Governance Committee for approval by the Board of Directors. The exact number of Compensation Committee members shall be determined from time to time by the Board of Directors. Members of the Compensation Committee shall not be subject to removal except by the Board of Directors. The Chairman of the Compensation Committee shall be recommended by the Nominating and Governance Committee for approval by the Board of Directors. The Compensation Committee shall have such duties and may exercise such authority as may be prescribed by resolution of the Board of Directors and the Compensation Committee Charter as adopted by resolution of the Board of Directors.

4.5 *The Nominating and Governance Committee*. The Nominating and Governance Committee shall consist of at least five directors, all of whom must be independent directors and all of whom shall be recommended by the Nominating and Governance Committee for approval by the Board of Directors. The exact number of Nominating and Governance Committee members shall be determined from time to time by the Board of Directors. Members of the Nominating and Governance Committee shall not be subject to removal except by the Board of Directors. The Chairman of the Nominating and Governance Committee shall be recommended by the Nominating and Governance Committee for approval by the Board of Directors. The Nominating and Governance Committee shall have such duties and may exercise such authority as may be prescribed by resolution of the Board of Directors and the Nominating and Governance Committee Charter as adopted by resolution of the Board of Directors.

4.6 *Other*. All other committees shall have such duties and may exercise such authority as may be prescribed for them by the Board of Directors.

4.7 *Conduct of Proceedings*. Unless otherwise provided in the Certificate of Incorporation, these Bylaws, the charter of the committee or by the Board of Directors by resolution, each committee may determine the manner in which committee proceedings shall be conducted. In the absence of any such established procedures, each committee shall conduct its business in the same manner as the Board of Directors conducts its business pursuant to Article 3 of these Bylaws. Committees shall keep minutes of their meetings and periodically report their proceedings to the Board of Directors and appropriate committees of the Board of Directors to the extent requested by the Board of Directors or Board committee.

ARTICLE 5
OFFICERS

5.1 *Number and Election*. The officers of the Corporation shall be a Chief Executive Officer, a Chief Financial Officer, a President, one or more Vice-Presidents (the number thereof to be determined by the Board of Directors), a Secretary, a Treasurer, and such other officers as the Board of Directors may determine, including an Assistant Secretary or Assistant Treasurer. The Chief Executive Officer shall be appointed by an affirmative vote of the majority of the Board of Directors, and may, but need not be the Chairman of the Board. Such affirmative vote may also prescribe his duties not inconsistent with these Bylaws and may prescribe a tenure of office.

Two or more offices may be held by the same person, except the Chief Executive Officer may not also be the Secretary or Assistant Secretary and the President may not also be the Secretary or Assistant Secretary.

5.2 *Chief Executive Officer*. The Chief Executive Officer shall, subject to the direction of the Board of Directors, have general charge and supervision of the business of the Corporation. The Chief Executive Officer shall be the official representative of the Corporation in all public matters. The Chief Executive Officer shall perform such other duties and possess such other powers as the Board of Directors may from time to time prescribe and that are incident to the office of Chief Executive Officer. The Chief Executive Officer shall not engage in any other business during his incumbency except with approval of the Board of Directors, and by his acceptance of the office of Chief Executive Officer he shall be deemed to have agreed to uphold these Bylaws.

5.3 *President*. The President shall be the chief operating officer of the Corporation and shall perform such duties and possess such powers as the Board of Directors or the Chief Executive Officer may from time to time prescribe. In the event of the absence, inability or refusal to act of the Chief Executive Officer, the President shall perform the officer duties of the Chief Executive Officer and, when so performing, shall have all the powers of and be subject to all the restrictions upon the office of Chief Executive Officer.

5.4 *Chief Financial Officer*. The Chief Financial Officer shall perform such duties and possess such powers as the Board of Directors or the Chief Executive Officer may from time to time prescribe. The Chief Financial Officer shall have the custody of

the corporate funds and securities; shall keep full and accurate all books and accounts of the Corporation as shall be necessary or desirable in accordance with applicable law or generally accepted accounting principles; shall deposit all monies and other valuable effects in the name and to the credit of the Corporation as may be ordered by the Chief Executive Officer or the Board of Directors; shall cause the funds of the Corporation to be disbursed when such disbursements have been duly authorized, taking proper vouchers for such disbursements; and shall render to the Board of Directors, at its regular meeting or when the Board of Directors so requires, an account of the Corporation.

5.5 *Vice Presidents*. Vice Presidents shall perform the duties prescribed by the Board of Directors, the Chief Executive Officer or President.

5.6 *Secretary*. The Secretary shall attend all meetings of stockholders and of the Board of Directors; the Secretary shall keep official records of meetings of stockholders at which action is taken and of meetings of the Board of Directors; the Secretary shall, in person or by representative, perform like services for the standing and special committees when required; the Secretary shall give notice of meetings of stockholders and of special meetings of the Board of Directors in accordance with the provisions of these Bylaws or as required by statute; the Secretary shall be custodian of the books, records, and corporate seal of the Corporation and attest, upon behalf of the Corporation, all contracts and other documents requiring authentication; the Secretary shall perform such other duties as may be prescribed by the Board of Directors, the Chief Executive Officer or President.

5.7 *Treasurer*. The Treasurer shall perform such duties and possess such powers as the Board of Directors, the Chief Executive Officer or the Chief Financial Officer may from time to time prescribe.

5.8 *Qualification and Tenure*. No officer need be a stockholder of the Corporation. Except as otherwise provided by law, by the Certificate of Incorporation or by these Bylaws, each officer shall hold office until his successor is elected and qualified, unless a different term is specified in the vote choosing or appointing him or her, or until his earlier death, resignation or removal.

5.9 *Resignation*. Any officer may resign by delivering such officer's written resignation to the Corporation at its principal office or to the Chief Executive Officer or Secretary. Such resignation shall be effective upon receipt unless it is specified to be effective at some other time or upon the happening of some other event.

5.10 *Removals*. Any officer appointed by the Board of Directors may be removed at any time by the Board of Directors, the Chief Executive Officer or the President; provided that the Chief Executive Officer can only be removed by the Board of Directors. Any such removal shall be without prejudice to the contract rights, if any, of the person so removed.

5.11 *Vacancies*. The Board of Directors may fill any vacancy occurring in any office for any reason and may, in its discretion, leave unfilled for such period as it may

determine any offices other than those of Chief Executive Officer, President, Secretary and Treasurer. Any vacancies occurring in any office of the Corporation at any time also may be filled by an officer authorized by the Board of Directors to appoint a person to hold such office. Each such successor, however appointed, shall hold office until such officer's successor is elected and qualified, or until such officer's earlier death, resignation or removal.

5.12 *Salaries*. Officers of the Corporation shall be entitled to such salaries, compensation or reimbursement as shall be fixed or allowed from time to time by the Board of Directors unless otherwise delegated to the Compensation Committee of the Board of Directors or to members of senior management. No officer shall be prevented from receiving such salary by reason of the fact that the officer is also a director of the Corporation.

ARTICLE 6
CAPITAL STOCK

6.1 *Issuance of Stock.* Subject to the provisions of the Certificate of Incorporation, the whole or any part of any unissued balance of the authorized capital stock of the Corporation or the whole or any part of any unissued balance of the authorized capital stock of the Corporation held in its treasury may be issued, sold, transferred or otherwise disposed of by vote of the Board of Directors in such manner, for such consideration and on such terms as the Board of Directors may determine.

6.2 *Certificates of Stock.* (a) The shares of stock in the Corporation shall be represented by certificates; provided that the Board of Directors may provide by resolution or resolutions that some or all of any or all classes or series of its stock shall be uncertificated shares. Any such resolution shall not apply to any such shares represented by a certificate theretofore issued until such certificate is surrendered to the Corporation. If shares of stock in the Corporation are certificated, any signature on such certificates may be a facsimile. In case any officer, transfer agent or registrar who has signed or whose facsimile signature has been placed upon a certificate shall have ceased to be such officer, transfer agent or registrar before such certificate is issued, it may be issued by the Corporation with the same effect as if such person were such officer, transfer agent or registrar at the date of issue.

(b) Certificates representing shares of stock of the Corporation may bear such legends regarding restrictions on transfer or other matters as any officer or officers of the Corporation may determine to be appropriate and lawful. If the Corporation is authorized to issue more than one class of stock or more than one series of any class, the powers, designations, preferences and relative, participating, optional or other special rights of each class of stock or series thereof and the qualifications or restrictions of such preferences and/or rights shall be set forth in full or summarized on the face or back of the certificate, if such shares are represented by certificates, which the Corporation shall issue to represent such class or series of stock, provided that, except as otherwise required by law, in lieu of the foregoing requirements, there may be set forth on the face or back of the certificate which the Corporation shall issue to represent such class or series of

stock a statement that the Corporation will furnish without charge to each stockholder who so requests the powers, designations, preferences and relative, participating, optional or other special rights of such class or series of stock and the qualifications, limitations or restrictions of such preferences and/or rights. Within a reasonable time after the issuance or transfer of uncertificated shares of any class or series of stock, the Corporation shall send to the registered owner thereof a written notice containing the information required by law to be set forth or stated on certificates representing shares of such class or series or a statement that the Corporation will furnish without charge to each stockholder who so requests the powers, designations, preferences and relative, participating, optional or other special rights of such class or series and the qualifications, limitations or restrictions of such preferences and/or rights. Except as otherwise expressly provided by law, the rights and obligations of the holders of uncertificated shares and the rights and obligations of the holders of certificates representing stock of the same class and series shall be identical.

6.3 *Transfers*. The shares of stock of the Corporation represented by certificates shall be transferable only upon the Corporation's books by the holders thereof in person or by their duly authorized attorneys or legal representatives, and upon such transfer the old certificates shall be surrendered to the Corporation by the delivery thereof to the person in charge of the stock and transfer books and ledgers, or to such other person as the Board of Directors may designate, by whom they shall be cancelled, and new certificates or uncertificated shares shall thereupon be issued. A record shall be made of each transfer and whenever a transfer shall be made for collateral security, and not absolutely, it shall be so expressed in the entry of the transfer. Uncertificated shares of stock of the Corporation shall be transferable only upon the Corporation's books by the holders thereof in person or by their duly authorized attorneys and legal representatives upon receipt by the Corporation or its transfer agent of proper transfer instructions from the registered owner of such uncertificated shares or such holder's duly authorized attorneys and legal representatives, and upon receipt of proper transfer instructions such uncertificated shares shall be canceled, new uncertificated shares or certificates representing shares shall be issued to the person entitled thereto and the transaction shall be recorded upon the books of the Corporation.

6.4 *Lost, Stolen or Destroyed Certificates*. The Corporation may issue a new certificate, certificates or uncertificated shares of stock in place of any previously issued certificate alleged to have been lost, stolen or destroyed, upon such terms and conditions as the Corporation may prescribe, including the presentation of reasonable evidence of such loss, theft or destruction and the giving of such indemnity as the Corporation may require for the protection of the Corporation or any transfer agent or registrar.

6.5 *Fixing Date for Determination of Stockholders of Record*. (a) In order that the Corporation may determine the stockholders entitled to notice of any meeting of stockholders or any adjournment thereof, the Board of Directors may fix a record date, which record date shall not precede the date upon which the resolution fixing the record date is adopted by the Board of Directors, and which record date shall, unless otherwise required by law, not be more than sixty (60) nor less than ten (10) days before the date of

such meeting. If the Board of Directors so fixes a date, such date shall also be the record date for determining the stockholders entitled to vote at such meeting unless the Board of Directors determines, at the time it fixes such record date, that a later date on or before the date of the meeting shall be the date for determining stockholders entitled to vote at such meeting. If no record date is fixed by the Board of Directors, the record date for determining stockholders entitled to notice of and to vote at a meeting of stockholders shall be at the close of business on the day next preceding the day on which notice of the meeting is given, or, if notice is waived, at the close of business on the day next preceding the day on which the meeting is held. A determination of stockholders of record entitled to notice of or to vote at a meeting of stockholders shall apply to any adjournment of the meeting; provided, however, that the Board of Directors may fix a new record date for the determination of stockholders entitled to vote at the adjourned meeting, and in such case shall also fix as the record date for stockholders entitled to notice of such adjourned meeting the same or an earlier date as that fixed for determination of stockholders entitled to vote in accordance herewith at the adjourned meeting.

(b) In order that the Corporation may determine the stockholders entitled to receive payment of any dividend or other distribution or allotment of any rights, or entitled to exercise any rights in respect of any change, conversion or exchange of stock or for the purpose of any other lawful action, the Board of Directors may fix a record date, which shall not be more than sixty (60) days prior to such other action. If no such record date is fixed, the record date for determining stockholders for any such purpose shall be at the close of business on the day on which the Board of Directors adopts the resolution relating thereto.

6.6 *Dividends*. Subject to limitations contained in the DGCL, the Certificate of Incorporation and these Bylaws, the Board of Directors may declare and pay dividends upon the shares of capital stock of the Corporation, which dividends may be paid either in cash, in property or in shares of the capital stock of the Corporation.

ARTICLE 7
RESERVED

ARTICLE 8
NOTICES

8.1 *Notices*. Except as provided in Section 8.2 and to the extent permitted by law, any notice required to be given by these Bylaws or otherwise shall be deemed to have been given:

(a) in person upon delivery of the notice in person to the person to whom such notice is addressed;

(b) by mail upon deposit of the notice in the United States mail, enclosed in a postage prepaid envelope;

(c) by messenger or overnight courier service upon provision of the notice to the messenger or courier service, provided that the delivery method does not require payment of the messenger or courier service fee to deliver the notice by the person to whom the notice is addressed;

(d) by facsimile machine upon acknowledgment by the facsimile machine used to transmit the notice of the successful transmission of the notice;

(e) by electronic mail upon electronic transmission of the notice; and

(f) by telephone when received.

Any such notice must be addressed to its intended recipient at the intended recipient's address (including the intended recipient's business or residence address, facsimile number, electronic address, or telephone number, as applicable) as it appears on the books and records of the Corporation, or if no address appears on such books and records, then at such address as shall be otherwise known to the Secretary. In the event that a notice is not provided in conformity with the provisions of this Section 8.1, the notice will be deemed to have been given to its intended recipient upon any receipt of the notice by its intended recipient.

8.2 *Electronic Notice*. Whenever any notice whatsoever is required to be given in writing to any stockholder by law, by the Certificate of Incorporation or by these Bylaws, such notice may be given by a form of electronic transmission if the stockholder to whom such notice is given has previously consented to the receipt of notice by electronic transmission.

8.3 *Waiver of Notice*. Whenever notice is required to be given under the provisions of any statute, the Certificate of Incorporation, these Bylaws, or otherwise, a waiver thereof, given by the person entitled to notice, or his proxy in the case of a stockholder, whether before or after the time stated therein shall be deemed equivalent to notice. Except as may be otherwise specifically provided by statute, any waiver by mail, messenger, overnight courier, facsimile machine, or electronic mail, bearing the name of the person entitled to notice shall be deemed a waiver duly given. Attendance of a person at a meeting, including attendance by proxy in the case of a stockholder, shall constitute a waiver of notice of such meeting except when the person attends a meeting for the express purpose of objecting, at the beginning of the meeting, to the transaction of any business the meeting is not lawfully called or convened. Except as required by statute or the Certificate of Incorporation, neither the business to be transacted at, nor the purpose of, any regular or special meeting of the stockholders, directors or any committee need be specified in any waiver of notice.

ARTICLE 9
GENERAL PROVISIONS

9.1 *Fiscal Year*. Except as from time to time otherwise designated by the Board of Directors, the fiscal year of the Corporation ends on the close of business on December 31 of each year.

9.2 *Corporate Seal*. The corporate seal, if any, shall be in such form as shall be approved by the Board of Directors or an officer of the Corporation.

9.3 *Voting of Securities*. Except as the Board of Directors may otherwise designate, the Chief Executive Officer, Chief Financial Officer or Treasurer may waive notice of, and act as, or appoint any person or persons to act as, proxy or attorney-in-fact for the Corporation (with or without power of substitution) at, any meeting of stockholders or shareholders or equity owners of any other corporation, organization or entity, the securities of which may be held by the Corporation.

9.4 *Evidence of Authority*. A certificate by the Secretary, or Assistant Secretary, as to any action taken by the stockholders, Board of Directors, a committee or any officer or representative of the Corporation shall, as to all persons who rely on the certificate in good faith, be conclusive evidence of such action.

9.5 *Certificate of Incorporation*. All references in these Bylaws to the Certificate of Incorporation shall be deemed to refer to the Certificate of Incorporation of the Corporation, as amended, altered or restated and in effect from time to time.

9.6 *Transactions with Interested Parties*. No contract or transaction between the Corporation and one or more of the directors or officers, or between the Corporation and any other corporation, limited liability company, partnership, association or other organization in which one or more of the directors or officers are directors, managers or officers, or have a financial interest, shall be void or voidable solely for this reason, or solely because the director, manager or officer is present at or participates in the meeting of the Board of Directors or a committee of the Board of Directors which authorizes the contract or transaction or solely because his, her or their votes are counted for such purpose, if:

(1) The material facts as to his, her or their relationship or interest and as to the contract or transaction are disclosed or are known to the Board of Directors or the committee, and the Board of Directors or committee in good faith authorizes the contract or transaction by the affirmative votes of a majority of the disinterested directors, even though the disinterested directors be less than a quorum;

(2) The material facts as to his, her or their relationship or interest and as to the contract or transaction are disclosed or are known to the stockholders entitled to vote thereon, and the contract or transaction is specifically approved in good faith by vote of the stockholders; or

(3) The contract or transaction is fair as to the Corporation as of the time it is authorized, approved or ratified by the Board of Directors, a committee of the Board of Directors or the stockholders.

Common or interested directors may be counted in determining the presence of a quorum at a meeting of the Board of Directors or of a committee at which the contract or transaction is authorized.

9.7 *Severability*. Any determination that any provision of these Bylaws is for any reason inapplicable, illegal or ineffective shall not affect or invalidate any other provision of these Bylaws.

9.8 *Pronouns*. All pronouns used in these Bylaws shall be deemed to refer to the masculine, feminine or neuter, singular or plural, as the identity of the person or persons may require.

9.9 *Contracts*. In addition to the powers otherwise granted to officers pursuant to Article 5 hereof, the Board of Directors may authorize any officer or officers, or any agent or agents, of the Corporation to enter into any contract or to execute and deliver any instrument in the name of and on behalf of the Corporation, and such authority may be general or confined to specific instances.

9.10 *Loans*. The Corporation may, to the extent permitted by applicable law, lend money to, or guarantee any obligation of, or otherwise assist any officer or other employee of the Corporation or of its subsidiaries, including any officer or employee who is a director of the Corporation or its subsidiaries, whenever, in the judgment of the directors, such loan, guaranty or assistance may reasonably be expected to benefit the Corporation. The loan, guaranty or other assistance may be with or without interest, and may be unsecured, or secured in such manner as the Board of Directors shall approve, including, without limitation, a pledge of shares of stock of the Corporation. Nothing in this Section 9.10 shall be deemed to deny, limit or restrict the powers of guaranty or warranty of the Corporation at common law or under any statute.

9.11 *Records*. The Certificate of Incorporation, Bylaws and the proceedings of all meetings of the stockholders, the Board of Directors, the Executive Committee and any other committee of the Board of Directors shall be recorded in appropriate minute books provided for this purpose or in any other information storage device (whether in paper or electronic form), provided that the records so kept can be converted into clearly legible form within a reasonable time. The Corporation shall so convert any such records so kept upon the request of any person entitled to inspect the same.

9.12 *Section Headings.* Section headings in these Bylaws are for convenience of reference only and shall not be given any substantive effect in limiting or otherwise construing any provision herein.

9.13 *Inconsistent Provisions*. In the event that any provision of these Bylaws is or becomes inconsistent with any provision of the Certificate of Incorporation, the DGCL

or any other applicable law, the provision of these Bylaws shall not be given any effect to the extent of such inconsistency but shall otherwise be given full force and effect.

ARTICLE 10
AMENDMENTS

10.1 *Amendment*. These Bylaws may be amended, altered or repealed, and new Bylaws may be adopted at any time, by the Board of Directors. Stockholders of the Corporation may alter, amend or repeal any Bylaw; provided, that in addition to any vote of the holders of any class or series of stock of the Corporation required by law or the Certificate of Incorporation, the affirmative vote of the holders of a majority of the votes entitled to be cast by the holders of the then-outstanding shares of capital stock of the Corporation entitled to vote generally in the election of directors, voting together as a single class, shall be required for the stockholders to adopt, alter, amend or repeal any provision of these Bylaws.

10.2 *Submission to Boards of any Regulated Securities Exchange Subsidiary*. Notwithstanding Section 10.1, for so long as the Corporation shall control, directly or indirectly, any national securities exchange, including, but not limited to, Chicago Board Options Exchange, Incorporated (a "Regulated Securities Exchange Subsidiary"), before any amendment, alteration or repeal of any provision of these Bylaws shall be effective, such amendment, alteration or repeal shall be submitted to the board of directors of each Regulated Securities Exchange Subsidiary, and if such amendment, alteration or repeal must be filed with or filed with and approved by the Securities and Exchange Commission, then such amendment, alteration or repeal shall not become effective until filed with or filed with and approved by the Securities and Exchange Commission, as the case may be.

ARTICLE 11
FORUM FOR ADJUDICATION OF DISPUTES

Unless the Corporation consents in writing to the selection of an alternative forum, the Court of Chancery of the State of Delaware shall, to the fullest extent permitted by law, be the sole and exclusive forum for (i) any derivative action or proceeding brought on behalf of the Corporation, (ii) any action asserting a claim of breach of a fiduciary duty owed by any director, officer, other employee or stockholder of the Corporation to the Corporation or the Corporation's stockholders, (iii) any action asserting a claim arising pursuant to any provision of the DGCL or as to which the DGCL confers jurisdiction on the Court of Chancery of the State of Delaware, or (iv) any action asserting a claim governed by the internal affairs doctrine.

Exhibit 5D

Note: All text is new.

CERTIFICATE OF FORMATION OF

CBOE V, LLC

This Certificate of Formation of CBOE V, LLC (the "LLC") is being duly executed and filed by CBOE HOLDINGS, INC. to form a limited liability company under the Delaware Limited Liability Company Act (6 Del. C. §18-101 et seq.) (the "LLC Act").

1. The name of the limited liability company formed hereby is CBOE V, LLC.

2. The address of the registered office of the LLC in the State of Delaware is Corporation Trust Center, 1209 Orange Street, Wilmington, New Castle County, Delaware 19801. The name of its registered agent at such address is The Corporation Trust Company.

3. The LLC shall provide indemnification for members of its board of directors (the "Board of Directors"), members of committees of the Board of Directors and of other committees of the LLC, and its officers, and the LLC may provide indemnification for its agents and employees, and those serving another corporation, partnership, joint venture, trust or other enterprise at the request of the LLC, in each case to the maximum extent permitted by the LLC Act; *provided, however*, that the LLC may limit the extent of such indemnification by individual contracts with its directors and officers; and, *provided, further*, that the LLC shall not be required to indemnify any person in connection with any proceeding (or part thereof) initiated by such person or any proceeding by such person against the LLC or its directors, officers, employees or other agents unless (i) such indemnification is expressly required to be made by law, (ii) the proceeding was authorized by the Board of Directors or (iii) such indemnification is provided by the LLC, in its sole discretion, pursuant to the powers vested in the LLC under the LLC Act; and

4. This Certificate of Formation shall be effective upon filing.

[Signature page follows]

IN WITNESS WHEREOF, the undersigned has executed this Certificate of Formation of CBOE V, LLC this 23rd day of September.

CBOE HOLDINGS, INC.

/s/ Joanne Moffic-Silver
Joanne Moffic-Silver
General Counsel and Secretary

Exhibit 5E

Note: All text is new.

LIMITED LIABILITY COMPANY OPERATING AGREEMENT

OF

CBOE V, LLC

(a Delaware limited liability company)

THIS LIMITED LIABILITY COMPANY OPERATING AGREEMENT (this "Agreement") is executed as of September 23, 2016 by CBOE Holdings, Inc. (the "Member"). The Member, intending to be legally bound, hereby states the terms of its agreement as to the affairs of, and the conduct of the business of, CBOE V, LLC, a limited liability company (the "Company"), as follows:

ARTICLE I
FORMATION, PURPOSE AND DEFINITIONS

1.1 **Establishment of Limited Liability Company**. The Member has caused a limited liability company to be established and organized as of September 23, 2016 pursuant to and in accordance with the Delaware Limited Liability Company Act (6 Del.C. §18-101, et seq.), as amended from time to time (the "LLC Act"), to carry on a business for profit. The Member is hereby admitted to membership in the Company, and, as provided in Section 5.2, until this Agreement is amended appropriately to contemplate the admission of additional members and their right to participate in the Company's business, the Member shall be the sole member of the Company.

1.2 **Name**. The name of the Company is CBOE V, LLC. The Company may conduct its activities under any other permissible name designated by the Board of Directors (as defined in Section 4.1(a) below).

1.3 **Registered Office of the Company**. The registered office of the Company in the State of Delaware shall be the location stated in the Company's Certificate of Formation filed with the Secretary of State of the State of Delaware. The Board of Directors may, from time to time, change such registered agent and registered office, by appropriate filings as required by law.

1.4 **Purpose**. Subject to the provisions of this Agreement, the purpose of the Company is (i) to operate directly or indirectly one or more national securities exchanges, (ii) to operate directly or indirectly one or more facilities of a national securities exchange, (iii) to operate directly or indirectly one or more "self-regulatory organizations" (each, an **"**SRO") as defined in Section 3(a)(26) of the Securities

Exchange Act of 1934, as amended (the **"**Exchange Act")**,** and (iv) to engage in any other business or activity in which a limited liability company organized under the LLC Act may lawfully engage and not otherwise prohibited by other applicable law, including the Exchange Act. The Company shall have the authority to do all things necessary or advisable in order to accomplish such purposes.

1.5 **Duration**. Unless the Company shall be earlier dissolved in accordance with Article VII, it shall continue in existence in perpetuity.

1.6 **Other Activities of Member**. The Member may engage in or possess an interest in other business ventures of any nature, whether or not similar to or competitive with the activities of the Company.

ARTICLE II
CAPITAL CONTRIBUTIONS

2.1 **Capital Contributions**. The Member has previously made one or more capital contributions to the Company. The receipt by the Member from the Company of any distributions whatsoever (whether pursuant to Section 3.1 or otherwise and whether or not such distributions may be considered a return of capital) shall not increase the Member's obligations under this Section 2.1.

2.2 **Additional Capital Contributions**. The Member may, but shall not be required to, make additional capital contributions to the Company.

2.3 **Loans**. If the Member makes any loans to the Company, or advances money on the Company's behalf, the amount of any such loan or advance shall not be deemed an increase in, or contribution to, the capital contribution of the Member. If the Company makes any loans to the Member, or advances money on the Member's behalf, the amount of any such loan or advance shall not be deemed a decrease in capital of the Member or a distribution to the Member. Interest shall accrue on any such loan or advance at an annual rate agreed to by the Company and the Member (but not in excess of the maximum rate allowable under applicable usury laws).

2.4 **Record of Membership Interest**. The Directors shall cause accurate records of the membership interests to be maintained. Membership interests need not be certificated.

ARTICLE III
DISTRIBUTIONS

3.1 **Distributions**. The Company shall make distributions to the Member at the times and in the manner that the Board of Directors deems appropriate and as permitted by law.

ARTICLE IV
RIGHTS AND DUTIES OF THE DIRECTORS AND MEMBER

4.1 **Management**.

(a) The business and affairs of the Company shall be managed by a board of directors (the "Board of Directors") elected by the Member.

(b) Except for situations in which the approval of the Member is expressly required by this Agreement or by non-waivable provisions of applicable law, the Board of Directors shall have full and complete authority, power and discretion to manage and control the business, affairs and properties of the Company, to make all decisions regarding those matters and to perform any and all other acts or activities customary or incident to the management of the Company's business. Each Director shall be an agent of the Company and shall have the right, power and authority to transact any business in the name of the Company to the degree authorized by the Board of Directors and to act for or on behalf of or to bind the Company to the degree authorized by the Board of Directors. Nothing contained in this Agreement shall require any person to inquire into the authority of the Directors to execute and deliver any document on behalf of the Company or to bind the Company pursuant to such document.

4.2 **Certain Powers of Board of Directors**. Without limiting the generality of Section 4.1 above, the Board of Directors shall have power and authority to cause the Company, in its own name:

(a) To purchase, lease or otherwise acquire or obtain the use of staff and personnel, and material, and other types of real and personal property that may be deemed necessary or desirable in connection with carrying on the business of the Company;

(b) To purchase liability, errors and omissions and other insurance to protect the Company's property and business;

(c) To invest any Company funds (by way of example but not limitation) in time deposits, short-term government obligations, commercial paper, money market mutual funds or other similar investments, including the lending of funds to the Member;

(d) To receive capital contributions from the Member;

(e) To establish a record date with respect to all actions to be taken hereunder that require a record date to be established, including with respect to allocations and distributions;

(f) To open, maintain and close bank accounts and establish accounts for the

Company and draw checks and other orders for the payment of money, and pay the Company's operating expenses in the ordinary course of the Company's business;

(g) To execute all instruments and documents, including the following: checks; drafts; notes and other negotiable instruments; mortgages or deeds of trust; security agreements; financing statements; documents providing for the acquisition, mortgage or disposition of the Company's property; assignments; bills of sale; leases; partnership agreements; operating agreements of other limited liability companies; and any other instruments or documents necessary, in the opinion of the Board of Directors, to the business of the Company;

(h) To enter into any and all other agreements on behalf of the Company, with any other person for any purpose, in such forms as the Board of Directors may approve;

(i) To employ or engage property managers, brokers, finders, accountants, legal counsel, investment bankers, managing agents or other experts or employees or agents to perform services for the Company and to compensate them from Company funds;

(j) To make distributions in accordance with Section 3.1 above;

(k) To furnish the Member with information relating to the Company;

(l) To prepare, or cause to be prepared, and file, on behalf of the Company, any required tax returns and to make any available or necessary elections in connection therewith; and

(m) To do and perform all other acts as may be necessary or appropriate to the conduct of the Company's business.

Unless authorized by this Agreement or by the Board of Directors of the Company, no attorney-in-fact, employee, or other agent of the Company shall have any power or authority to bind the Company in any way, to pledge its credit or to render it liable for any purpose; provided, however, that the officers of the Company shall have the authority to bind the Company in a manner customary for their respective offices.

4.3 **Contracts with Affiliates**. The Board of Directors may cause the Company to enter into contracts relating to any of the transactions described in Section 4.2 above with the Member or any direct or indirect subsidiary of the Member.

4.4 **Number, Tenure and Qualifications of Directors**. The number of, and members of, the Board of Directors shall be determined by the Member. Each Director shall hold office until the next annual meeting of the Member and, if later, until a qualified successor has been duly elected and qualified as provided herein, or until the Director's earlier death, resignation or removal. Directors need not be Members or residents of the State of Delaware but must be natural persons.

4.5 **Meetings of the Board of Directors; Action by the Board of Directors**.

(a) Frequency and Place of Meetings. The Board of Directors shall meet as often as is necessary or desirable to carry out its functions on such dates and times as the Board of Directors may determine from time to time. Meetings of the Board of Directors shall be held within or outside the State of Delaware as may be designated from time to time by the Board of Directors. Notice of the date, time and purpose of each regular and special meeting shall be delivered personally or by telephone to each Director or sent by first class mail, electronic mail or facsimile transmission, charges prepaid, addressed to such Director at such Director's mailing or electronic mail address or facsimile address or number as appears on the records of the Company at least two business days prior to the date scheduled for a meeting. A Director may waive the requirement of notice of a meeting either by attending a meeting for which notice was not given or executing a written waiver before or after such meeting.

(b) Action by Written Consent. Any action required or permitted to be taken at any meeting of the Board of Directors or any committee thereof may be taken without a meeting, without prior notice and without a vote, if a consent or consents in writing, setting forth the action so taken shall be signed by the Directors having not less than the minimum number of votes that would be necessary to authorize or take such action at a meeting.

(c) Quorum; Attendance by Telephone; Vote. The presence of a majority of the Directors shall be necessary to constitute a quorum for the transaction of business, and the acts of a majority of the Directors present and voting at a meeting at which a quorum is present shall be the acts of the Board of Directors. Any one or all of the Directors may participate in a meeting of the Board of Directors by means of a conference telephone or similar communication device that allows all persons participating in the meeting to simultaneously hear each other during the meeting, and such participation in the meeting shall be equivalent of being present in person at such meeting. For each Board of Directors decision, each Director shall have one vote. There shall not be classes of Directors. Unless otherwise provided in this Agreement, on any matter that is to be voted on by Directors, the Directors may vote in person or by proxy.

(d) Records. The Company shall maintain permanent written records of all actions taken by the Directors pursuant to any provision of this Agreement, including minutes of all meetings of the Board of Directors and copies of all actions taken by written consent of the Directors.

4.6 **Directors Have No Exclusive Duty to the Company**. The Directors shall not be required to manage the Company as their sole and exclusive function, and they may have other business interests and may engage in other activities in addition to those relating to the Company. Neither the Company nor any Member shall have any right, by virtue of this Agreement, to share or participate in such other investments or activities of the Directors or to the income or proceeds derived from such investments or

activities. The Directors shall incur no liability to the Company or to any Member as a result of engaging in any other business or venture.

4.7 **Officers**. The Company may have such officers and agents with such respective rights and duties as the Directors may from time to time determine. The Directors may delegate to one or more agents, officers, employees or other persons (who shall not be deemed "Directors" within the meaning of the LLC Act) any and all powers to manage the Company that the Directors possess under this Agreement and the LLC Act. The officers shall serve at the pleasure of the Board of Directors and until their qualified successor or successors shall be duly elected and qualified or until their earlier death, resignation or removal. The officers, in the performance of their duties as such, shall owe to the Company duties of loyalty and care of the type owed by the officers of a corporation to such corporation and its stockholders under the laws of the State of Delaware.

4.8 **Resignation of Directors**. Any Director of the Company may resign at any time by giving written notice to the Member and the secretary of the Company, if any, and, if not, to the other remaining Directors. The resignation of any Director shall take effect upon receipt of that notice or at such later time as shall be specified in the notice; and, unless otherwise specified in the notice, the acceptance of the resignation shall not be necessary to make it effective. The resignation of a Director shall not constitute the withdrawal of the Member.

4.9 **Vacancies in the Board of Directors**. In the event that a vacancy occurs for any reason in the Board of Directors of the Company, a special meeting of the Member may be called by the Member for the purpose of electing a Director to fill such vacancy in accordance with Section 4.4 above. In the absence of such a special meeting, any vacancy in the Board of Directors shall be filled in accordance with Section 4.4 above at the next annual meeting of the Member.

4.10 **Compensation of Directors and Others**. The Directors shall not be entitled to receive compensation for their services as Directors. The Member acknowledges that one or more Directors may act in various capacities with respect to the Company and that, in exchange for services rendered in connection with the Company (other than services relating to the Board of Directors), the Directors and companies and persons affiliated with them may receive such fees and compensation as are fixed by the Board of Directors, with the approval of the Member. The Board of Directors expressly reserves the right to contract for management, consulting or other services with an affiliated or unaffiliated company; provided that any such contracts shall be subject to the provisions of Section 4.3 above (if any) and that fees and other compensation paid to affiliates of a Director may not exceed market rates for similar services in the same region.

4.11 **Voting Powers of Member**.

(a) General Rules. The Member, as such, shall not have any voting rights or take any part in the day-to-day management or conduct of the business of the Company, nor shall the Member have any right or authority to act for or bind the Company. Actions and decisions that do require the approval of the Member pursuant to any provision of this Agreement or applicable law may be authorized or made by affirmative vote of the Member. Such vote may be taken at a meeting of the Member or by written consent without a meeting.

(b) Meetings. An annual meeting of the Member may be held for the purpose of electing Directors and conducting such additional business as shall properly come before the meeting in each calendar year. The Board of Directors shall, by resolution, set the date, time and location of any such annual meeting. In addition, Member may call a meeting to consider approval of an action or decision under any provision of this Agreement.

(c) Action by Written Consent. Any action required or permitted to be taken at a meeting of the Member may be taken without a meeting if, prior or subsequent to the action, a written consent in lieu of a meeting, setting forth the action so taken or to be taken shall be signed by such Member.

(d) Records. The Company shall maintain permanent written records of all actions taken by the Member pursuant to any provision of this Agreement, including minutes of all meetings of the Member and copies of all actions taken by written consent of the Member.

ARTICLE V
TRANSFER OF MEMBERSHIP INTERESTS

5.1 **General Restriction**. For so long as the Company shall control, directly or indirectly, a subsidiary (each, an "Exchange Subsidiary") that is registered with the Securities and Exchange Commission (the "SEC") as a national securities exchange as provided in Section 6 of the Securities Exchange Act of 1934 (the "Exchange Act"), the Member may not sell, assign, transfer, convey, gift, exchange or otherwise dispose of any or all of its membership interest in the Company except pursuant to an amendment of this Agreement, which shall not be effective until filed with and approved by the U.S. Securities and Exchange Commission (the "SEC") under Section 19 of the Exchange Act and the rules and regulations promulgated thereunder by the SEC or otherwise, as the case may be. After such amendment is effective, upon receipt by the Company of a written agreement executed by the person or entity to whom such membership interests are to be transferred agreeing to be bound by the terms of this Agreement, such person shall be admitted as a member of the Company.

5.2 **Admission of Members**. Until and unless this Agreement is appropriately amended to contemplate the admission of additional members, the

Company shall at all times have only one Member. New members shall be admitted only upon the approval of the Member and pursuant to an amendment to this Agreement, which, for so long as the Company shall control, directly or indirectly, an Exchange Subsidiary, shall not be effective until filed with and approved by the SEC under Section 19 of the Exchange Act and the rules and regulations promulgated thereunder by the SEC or otherwise.

ARTICLE VI
DISSOCIATION OF THE MEMBER

6.1 **Dissociation**. The Member shall not be entitled voluntarily to withdraw, resign or dissociate from the Company or assign its membership interest prior to the dissolution and winding-up of the Company, and any attempt by the Member to do so shall be ineffective; provided, however, that "permitted transfers" under Section 5.1 above shall not be a violation of this Section 6.1.

ARTICLE VII
DISSOLUTION AND LIQUIDATION

7.1 **Events Triggering Dissolution**. The Company shall dissolve and commence winding up and liquidation upon the first to occur of any of the following ("Liquidating Events"):

(a) the written consent of the Member; or

(b) the entry of a decree of judicial dissolution under Section 18-802 of the LLC Act.

The Company shall not be dissolved for any other reason, including, the Member's becoming bankrupt or executing an assignment for the benefit of creditors, and any such bankruptcy or assignment (unless a "permitted transfer" under Section 5.1 above) shall not effect a transfer of any portion of Member's membership interest in the Company.

7.2 **Liquidation**. Upon dissolution of the Company in accordance with Section 7.1 above, the Company shall be wound up and liquidated by the Member or by a liquidating Director selected by the Board of Directors. The proceeds of such liquidation shall be applied and distributed in the following order of priority:

(a) to creditors, including the Member if it is a creditor, in the order of priority as established by law, in satisfaction of liabilities of the Company (whether by payment or the making of reasonable provision for payment thereof) other than liabilities for which reasonable provision for payment has been made and liabilities for distributions to the Member under the LLC Act; and then

(b) to the setting up of any reserves in such amount and for such period as shall be necessary to make reasonable provisions for payment of all contingent, conditional or unmatured claims and obligations known to the Company and all claims and obligations known to the Company but for which the identity of the claimant is unknown; and then

(c) to the Member, which liquidating distribution may be made to the Member in cash or in kind, or partly in cash and partly in kind.

7.3 **Certificate of Dissolution**. Upon the dissolution of the Company and the completion of the liquidation and winding up of the Company's affairs and business, the Board of Directors or the liquidating Director shall on behalf of the Company prepare and file a certificate of dissolution with the Secretary of State of the State of Delaware, if and as required by the LLC Act. When such certificate is filed, the Company's existence shall cease.

ARTICLE VIII
ACCOUNTING AND FISCAL MATTERS

8.1 **Fiscal Year**. The fiscal year of the Company shall be the calendar year.

8.2 **Method of Accounting**. The Member shall select a method of accounting for the Company as deemed necessary or advisable and shall keep, or cause to be kept, full and accurate records of all transactions of the Company in accordance with sound accounting principles consistently applied.

8.3 **Financial Books and Records**. All books of account shall, at all times, be maintained in the principal office of the Company or at such other location as specified by the Member.

8.4 **Books and Records Relating to the Self-Regulatory Function of the Exchange Subsidiaries**.

(a) To the fullest extent permitted by law, all books and records of an Exchange Subsidiary reflecting confidential information pertaining to the self-regulatory function of an Exchange Subsidiary (including disciplinary matters, trading data, trading practices and audit information) that shall come into the possession of the Company, and the information contained in those books and records, shall be retained in confidence by the Company, the Member, and the officers, employees and agents of the Company, and shall not be used for any non-regulatory purposes. Notwithstanding the foregoing sentence, nothing herein shall be interpreted so as to limit or impede the rights of the SEC or an Exchange Subsidiary to access and examine such confidential information pursuant to the U.S. federal securities laws and the rules and regulations thereunder, or to limit or impede the ability of the Member or any officer, employee or agent of the Company to disclose such information to the SEC or an Exchange Subsidiary.

(b) To the extent they are related to the operation or administration of an Exchange Subsidiary, the books, records, premises, officers, agents, and employees of the Company shall be deemed to be the books, records, premises, officers, agents and employees of such Exchange Subsidiary for the purposes of, and subject to oversight pursuant to, the Exchange Act. For so long as the Company shall control, directly or indirectly, an Exchange Subsidiary, the Company's books and records shall be subject at all times to inspection and copying by the SEC and the applicable Exchange Subsidiary; provided that such books and records are related to the operation or administration of an Exchange Subsidiary.

ARTICLE IX
INDEMNIFICATION

9.1 **Liability of Officers and Directors; Limits**. No Director or officer of the Company shall be liable to the Company or to any Member for any loss or damage sustained by the Company or to any Member, unless the loss or damage shall have been the result of the conduct described in (a), (b) or (c), below, (any such conduct, "Improper Conduct"):

(a) gross negligence, fraud or intentional misconduct, bad faith or knowing violation of law by such Director or officer;

(b) a breach of the duty of loyalty of such Director or officer to the Company or the Member; or

(c) a transaction from which such Director or officer derived an improper personal benefit,

it being understood that Section 4.6 above shall continue to apply.

9.2 **Limited Liability**. Except as otherwise provided by the LLC Act, the debts, obligations and liabilities of the Company, whether arising in contract, tort or otherwise, shall be solely the debts, obligations and liabilities of the Company, and no Member, Director or officer of the Company shall be obligated personally for any such debt, obligation or liability of the Company solely by reason of being a Member, Director or officer of the Company. The Member shall not be required to lend any funds to the Company.

9.3 **Right to Indemnification**.

(a) Subject to the limitations and conditions as provided in this Article IX, the Company shall provide indemnification for members of its Board of Directors, members of committees of the Board of Directors and of other committees of the Company, and its officers, and the Company may provide indemnification for its agents and employees, and those serving another corporation, partnership, joint venture, trust or other enterprise

at the request of the Company, in each case to the maximum extent permitted by the Limited Liability Company Act of the State of Delaware; *provided, however*, that the Company may limit the extent of such indemnification by individual contracts with its directors and executive officers; and, *provided, further*, that the Company shall not be required to indemnify any person in connection with any proceeding (or part thereof) initiated by such person or any proceeding by such person against the Company or its directors, officers, employees or other agents unless (i) such indemnification is expressly required to be made by law, (ii) the proceeding was authorized by the Board of Directors or (iii) such indemnification is provided by the Company, in its sole discretion, pursuant to the powers vested in the Company under the Limited Liability Company Act of the State of Delaware; and

(b) To the fullest extent not prohibited by the Limited Liability Company Act of the State of Delaware, as it exists on the date this Agreement is adopted or as such law may later be amended, no director of the Company shall be liable to the Company or its Member for monetary damages for any breach of fiduciary duty as a director. No amendment to or repeal of this Section 9.3 shall adversely affect any right or protection of a director of the Company that exists at the time of such amendment or repeal with respect to any actions taken, or inactions, prior thereto.

9.4 **Advance Payment**. The right to indemnification conferred in this Article IX shall include the right to be paid or reimbursed by the Company the reasonable expenses incurred by a person of the type entitled to be indemnified under Section 9.3 who was, is or is threatened to be, made a named defendant or respondent in a Proceeding in advance of the final disposition of the Proceeding and without any determination as to the person's ultimate entitlement to indemnification; provided, however, that the payment of such expenses incurred by any such person in advance of the final disposition of a Proceeding shall be made only upon delivery to the Company of a written affirmation by such person of his or her good faith belief that he has met the standard of conduct necessary for indemnification under Article IX and a written undertaking, by or on behalf of such person, to repay all amounts so advanced if it shall ultimately be determined that such indemnified person is not entitled to be indemnified under this Article IX or otherwise.

9.5 **Indemnification of Employees and Agents**. The Company, upon the direction of the Board of Directors, may indemnify and advance expenses to an employee or agent of the Company to the same extent and subject to the same conditions under which it may indemnify and advance expenses under Sections 9.3 and 9.4. Notwithstanding the foregoing, no such indemnity shall extend to any employee or agent to the extent that any Proceeding or judgment, penalty, fine, settlement or expenses result from Improper Conduct on the part of such employee or agent.

9.6 **Appearance as a Witness**. Notwithstanding any other provision of this Article IX, the Company may pay or reimburse reasonable out-of-pocket expenses incurred by any Member, Director, officer or agent in connection with his or her

appearance as a witness or other participation in a Proceeding at a time when he is not a named defendant or respondent in the Proceeding.

9.7 **Nonexclusivity of Rights**. The right to indemnification and the advancement and payment of expenses conferred in this Article IX shall not be exclusive of any other right that a Member, Director, officer or other person indemnified pursuant to this Article IX may have or hereafter acquire under any law (common or statutory) or provision of this Agreement.

9.8 **Insurance**. The Company may purchase and maintain (if and to the extent feasible, as determined by the Board of Directors) insurance, at its expense, to protect itself and any Director, officer or agent of the Company who is or was serving at the request of the Company as a Director, representative, Director, officer, partner, venturer, proprietor, trustee, employee, agent or similar functionary of another foreign or domestic limited liability company, corporation, partnership, joint venture, sole proprietorship, trust, employee benefit plan or other enterprise against any expense, liability or loss, whether or not the Company would have the power to indemnify such person against such expense, liability or loss under this Article IX.

9.9 **Savings Clause**. If this Article IX or any portion hereof shall be invalidated on any ground by any court of competent jurisdiction, then the Company shall nevertheless indemnify and hold harmless each person indemnified pursuant to this Article IX as to costs, charges and expenses (including reasonable attorneys' fees), judgments, fines and amounts paid in settlement with respect to any such Proceeding, appeal, inquiry or investigation to the full extent permitted by any applicable portion of this Article IX that shall not have been invalidated and to the fullest extent permitted by applicable law.

ARTICLE X

SRO FUNCTION

10.1 **Preservation of Independence**.

(a) For so long as the Company shall, directly or indirectly, control any Exchange Subsidiary, the Member and the officers, employees and agents of the Company shall give due regard to the preservation of the independence of the self-regulatory function of such Exchange Subsidiary, as well as to its obligations to investors and the general public and shall not take any actions that would interfere with the effectuation of any decisions by a board of directors of an Exchange Subsidiary relating to its regulatory functions (including disciplinary matters) or which would interfere with the ability of such Exchange Subsidiary to carry out its responsibilities under the Exchange Act.

(b) To the fullest extent permitted by law, no present or past member of the Company, employee, beneficiary, agent, customer, creditor, regulatory authority (or member thereof) or other person shall have any rights against the Company or any manager, officer, employee or agent of the Company under this Section 10.01.

10.2 **Compliance with Securities Laws; Cooperation with the SEC**.

(a) The Company shall comply with the U.S. federal securities laws and the rules and regulations thereunder and shall cooperate with the SEC and each Exchange Subsidiary, as applicable, pursuant to and to the extent of their respective regulatory authority. The officers, directors, employees and agents of the Company, by virtue of their acceptance of such position, shall be deemed to agree (x) to comply with the U.S. federal securities laws and the rules and regulations thereunder and (y) to cooperate with the SEC and each Exchange Subsidiary in respect of the SEC's oversight responsibilities regarding the Exchange Subsidiaries and the self-regulatory functions and responsibilities of the Exchange Subsidiaries. The Company shall take reasonable steps necessary to cause its officers, employees and agents to so cooperate.

(b) To the fullest extent permitted by law, no present or past member of the Company, employee, beneficiary, agent, customer, creditor, regulatory authority (or member thereof) or other person shall have any rights against the Company or any manager, officer, employee or agent of the Company under this Section 10.02.

10.3 **Consent to Jurisdiction**.

(a) To the fullest extent permitted by law, the Company and its officers, directors, employees and agents, by virtue of their acceptance of such position, shall be deemed to irrevocably submit to the jurisdiction of the U.S. federal courts, the SEC and each Exchange Subsidiary, as applicable, for the purposes of any suit, action or proceeding pursuant to the U.S. federal securities laws and the rules and regulations thereunder arising out of, or relating to, the activities of an Exchange Subsidiary, and by virtue of their acceptance of any such position, shall be deemed to waive, and agree not to assert by way of motion, as a defense or otherwise in any such suit, action or proceeding, any claims that it or they are not personally subject to the jurisdiction of the U.S. federal courts, the SEC and the Exchange Subsidiaries that the suit, action or proceeding is an inconvenient forum or that the venue of the suit, action or proceeding is improper, or that the subject matter of that suit, action or proceeding may not be enforced in or by such courts or agency.

(b) The Company and its officers, employees and agents shall be deemed to agree that they will maintain an agent, in the United States, for the service of process of any claim arising out of, or relating to, the activities of an Exchange Subsidiary. In the case of the officers, employees and agents of the Company, the Company shall act as agent for service of process.

ARTICLE XI
AMENDMENTS

11.1 This Agreement may be altered, amended, or repealed, in whole or in part, or a new Agreement may be adopted by the Member, in the manner now or hereafter prescribed by the LLC Act and this Agreement.

11.2 For so long as the Company shall control, directly or indirectly, an Exchange Subsidiary, before any amendment to or repeal of any provision of this Agreement shall be effective, those changes shall be submitted to the board of directors of each Exchange Subsidiary and if the same must be filed with, or filed with and approved by, the SEC before the changes may be effective under Section 19 of the Exchange Act and the rules promulgated under the Exchange Act or otherwise, then the proposed changes to this Agreement shall not be effective until filed with, or filed with and approved by, the SEC, as the case may be.

ARTICLE XII
MISCELLANEOUS

12.1 **Binding Effect**. Except as otherwise provided in this Agreement to the contrary, this Agreement shall be binding upon and inure to the benefit of the Member and, subject to Article V above, its successors and assigns.

12.2 **Governing Law**. This Agreement shall be governed by, and construed in accordance with, the laws of the State of Delaware without reference to conflict of laws principles.

12.3 **Severability**. The invalidity or unenforceability of any particular provision of this Agreement shall be construed in all respects as if such invalid or unenforceable provision were omitted.

12.4 **Gender**. As used in this Agreement, the masculine gender shall include the feminine and the neuter, and vice versa and the singular shall include the plural.

IN WITNESS WHEREOF, the Member has signed this Agreement as of the date first written above.

CBOE HOLDINGS, INC.

By: /s/ Joanne Moffic-Silver

Name: Joanne Moffic-Silver

Title: General Counsel and Secretary

Exhibit 5F

Note: Proposed new language is underlined. Proposed deletions are enclosed in [brackets].

AMENDED AND RESTATED LIMITED LIABILITY COMPANY OPERATING AGREEMENT OF DIRECT EDGE LLC

This Amended and Restated Limited Liability Company Operating Agreement (this "Agreement") of Direct Edge LLC (the "Company"), dated as of [May 10, 2016]_____ , is made by [Bats Global Markets, Inc.]CBOE V, LLC, a Delaware [corporation]limited liability company, as the sole member of the Company (the "Member").

***

ARTICLE II
THE MEMBER

Section 2.01. **The Member.**

The name and address of the Member are as follows:

[Bats Global Markets, Inc.
8050 Marshall Drive, Suite 120
Lenexa, Kansas 66214]
CBOE V, LLC
400 S. La Salle Street
Chicago, IL 60605

***

The undersigned has duly executed this Agreement as of the day first set forth above.

[Bats Global Markets, Inc.]CBOE V, LLC

By: _____
Name:
Title:

***

Exhibit 5G

Note: Proposed new language is underlined. Proposed deletions are enclosed in [brackets].

[FIFTH] SIXTH AMENDED AND RESTATED BYLAWS OF BATS EDGX EXCHANGE, INC.

(a Delaware corporation)

Article I Definitions

***

(ff) "Trading Permit Holder" shall have the same meaning as Exchange Member.

***

Article XI
Miscellaneous Provisions

***

Section 2. Participation in Board and Committee Meetings

All meetings of the Board (and any committees of the Board) pertaining to the self- regulatory function of the Company (including disciplinary matters) shall be closed to all persons other than members of the Board and officers, staff, counsel or other advisors whose participation is necessary or appropriate to the proper discharge of such regulatory functions and any representatives of the Commission. In no event shall members of the Board of Directors of CBOE Holdings, Inc., CBOE V, LLC or Direct Edge LLC [or Bats Global Markets, Inc.] who are not also members of the Board, or any officers, staff, counsel or advisors of CBOE Holdings, Inc., CBOE V, LLC or Direct Edge LLC [or Bats Global Markets, Inc.] who are not also officers, staff, counsel or advisors of the Company (or any committees of the Board), be allowed to participate in any meetings of the Board (or any committee of the Board) pertaining to the self-regulatory function of the Company (including disciplinary matters).

***

Exhibit 5H

Note: Proposed new language is underlined. Proposed deletions are enclosed in [brackets].

Rules of Bats EDGX Exchange, Inc.

***

CHAPTER II. MEMBERS OF THE EXCHANGE

***

Rule 2.3. Member Eligibility

***

Except as hereinafter provided, any registered broker or dealer that is and remains a member of [another] a national securities association registered under Section 15A(a) of the Act or a member of another national securities exchange [or association] registered under Section 6(a) of the Act (other than or in addition to the [Exchange's] following affiliates [-] of the Exchange: Bats BZX Exchange, Inc., Bats BYX Exchange, Inc., [or] Bats EDGA Exchange, Inc., or C2 Options Exchange, Inc.) or any person associated with such a registered broker or dealer, shall be eligible to be and to remain a Member.

***

Rule 2.10. Affiliation between Exchange and a Member

Without the prior approval of the Commission, the Exchange or any entity with which it is affiliated shall not, directly or indirectly, acquire or maintain an ownership interest in a Member. In addition, without the prior approval of the Commission, a Member shall not be or become an affiliate of the Exchange, or an affiliate of any affiliate of the Exchange. The term affiliate shall have the meaning specified in Rule 12b-2 under the Act. Nothing in this Rule 2.10 shall prohibit a Member or its affiliate from acquiring or holding an equity interest in CBOE Holdings, [Bats Global Markets,] Inc. that is permitted by the ownership and voting limitations contained in the Certificate of Incorporation and Bylaws of CBOE Holdings, [Bats Global Markets,] Inc. In addition, nothing in this Rule 2.10 shall prohibit a Member from being or becoming an affiliate of the Exchange, or an affiliate of any affiliate of the Exchange, solely by reason of such Member or any officer, director, manager, managing member, partner or affiliate of such Member being or becoming either (a) a Director (as such term is defined in the Bylaws of the Exchange) pursuant to the Bylaws of the Exchange, or (b) a Director serving on the Board of Directors of CBOE Holdings, [Bats Global Markets,] Inc. In addition, nothing in this Rule 2.10 shall prohibit the Exchange from being an affiliate of its routing broker/dealer [Direct Edge ECN LLC d/b/a DE Route] Bats Trading, Inc. or of Bats EDGA Exchange, Inc., Bats BZX Exchange, Inc., Bats BYX Exchange, Inc., [or Bats Trading, Inc.]

Chicago Board Options Exchange, Incorporated, C2 Options Exchange, Incorporated, or CBOE Futures Exchange, LLC.

***

Rule 2.12. Bats Trading, Inc. as Inbound Router

***

(3) The Exchange, on behalf of [Bats Global Markets, Inc.]the holding company indirectly owning the Exchange and Bats Trading, shall establish and maintain procedures and internal controls reasonably designed to ensure that Bats Trading does not develop or implement changes to its systems on the basis of nonpublic information obtained as a result of its affiliation with the Exchange until such information is available generally to similarly situated members of the Exchange in connection with the provision of inbound order routing to the Exchange.

***