

**AMENDED AND RESTATED  
CERTIFICATE OF INCORPORATION  
OF  
BOARD OF TRADE OF THE  
CITY OF CHICAGO, INC.  
(ORIGINALLY INCORPORATED IN THE STATE OF DELAWARE UNDER THE NAME DELAWARE  
CBOT, INC. ON MAY 12, 2000)**

**ARTICLE I  
NAME**

The name of the corporation is Board of Trade of the City of Chicago, Inc. (hereinafter referred to as the “Corporation”).

**ARTICLE II  
REGISTERED AGENT**

The address of the registered office of the Corporation in the State of Delaware is 160 Greentree Drive, Suite 101, in the City of Dover, County of Kent, Delaware 19904. The name of the registered agent of the Corporation at such address is National Registered Agents, Inc.

**ARTICLE III  
CORPORATE PURPOSES**

The nature of the business or purposes to be conducted or promoted by the Corporation are to engage in any lawful act or activity for which corporations may be organized under the Delaware General Corporation Law (as amended from time to time, the “DGCL”).

**ARTICLE IV  
MEMBERSHIP**

*A. General.*

The Corporation shall have no authority to issue capital stock. The terms and conditions of membership in the Corporation shall be as provided in or pursuant to this Certificate of Incorporation, the Bylaws of the Corporation (the “Bylaws”) and the Rules and Regulations of the Corporation as in effect from time to time (the “Rules”).

*B. Classes and Series of Membership.*

Membership in the Corporation shall be divided into classes and series as set forth in this Article IV.

*1. Class A Membership.*

There shall be one Class A Membership in the Corporation (the “Class A Membership” and the holder thereof, the “Class A Member”), which Class A Membership shall be held by CME Group Inc., a Delaware corporation (“CME Group”). It shall be a term and condition of such Class A Membership that such membership may not be transferred to or held by any person or entity other than CME Group unless authorized by an amendment to this Section B(1) of Article IV. Except to the extent (if any) expressly provided herein or required by law, the Class A Member shall have the right to vote on any matter to be voted on by the members of the Corporation other than on those matters expressly reserved to the vote of the holders of Series B-1 Memberships and Series B-2 Memberships (each as defined in Section B(2) of this Article IV) and shall have the exclusive right to receive any dividend or other distribution (including upon liquidation, dissolution, winding-up or otherwise) to be declared, paid or distributed by the Corporation, and no other member of or class or series of membership in the Corporation shall be entitled to vote on any matter except as set forth in Section D(2) or Section E of this Article IV or Article IX of this Certificate of Incorporation, or to receive any such dividend or other distribution.

## 2. *Class B Membership.*

(a) Class B Memberships in the Corporation (each a “Class B Membership” and the holder thereof, a “Class B Member”) shall represent the right to trade on and otherwise utilize the facilities of the Corporation in accordance with and to the extent permitted by this Certificate of Incorporation, the Bylaws and, to the extent not inconsistent with this Certificate of Incorporation, the Bylaws or the Rules. There shall be authorized three thousand six hundred eighty-one (3,681) Class B Memberships, which shall be divided into five (5) series (“Series”) as follows:

1,402 Series B-1 Memberships (each, a “Series B-1 Membership” and the holder thereof, a “Series B-1 Member”);

867 Series B-2 Memberships (each, a “Series B-2 Membership” and the holder thereof, a “Series B-2 Member”);

128 Series B-3 Memberships (each, a “Series B-3 Membership” and the holder thereof, a “Series B-3 Member”);

641 Series B-4 Memberships (each, a “Series B-4 Membership” and the holder thereof, a “Series B-4 Member”); and

643 Series B-5 Memberships (each, a “Series B-5 Membership” and the holder thereof, a “Series B-5 Member”);

(b) Notwithstanding Section B(2)(a) of this Article IV, the Corporation may issue additional authorized but unissued Series B-2 Memberships only in connection with the conversion of Series B-3 Memberships into Series B-2 Memberships pursuant to Section D(3) of this Article IV and no person may become or qualify as a Series B-2 Member at any time by acquiring a theretofore authorized but unissued Series B-2 Membership except as a result of such a conversion.

(c) Class B Memberships shall have no right to receive any dividend or other distribution (including upon liquidation, dissolution, winding-up or otherwise) to be declared, paid or distributed by the Corporation. The respective rights and privileges of each Series of Class B Membership shall be as provided in or pursuant to this Certificate of Incorporation and the Bylaws.

### *C. Class B Voting Rights.*

Except as otherwise expressly provided in this Certificate of Incorporation, the holders of Class B Memberships shall not be entitled to vote on any matter. On any matter on which the holders of Series B-1 Memberships and Series B-2 Memberships are entitled to vote together as a single class pursuant to this Certificate of Incorporation, each holder of Series B-1 Memberships shall be entitled to one (1) vote per such membership and each holder of Series B-2 Memberships shall be entitled to one-sixth (1/6) of one (1) vote per such membership.

### *D. Special Rights of Class B Membership.*

The holders of each Series of Class B Membership shall have the trading rights and other rights and privileges, and shall be subject to the restrictions, terms and conditions, set forth below.

#### *1. Series Trading Rights.*

(a) *Series B-1 Memberships.* Each holder of a Series B-1 Membership who satisfies the qualifications for and requirements of Full Membership in the Corporation as set forth in the Rules shall be entitled to the rights and privileges of, and shall be subject to the restrictions, conditions and limitations on, a Full Member as set forth in this Certificate of Incorporation, the Bylaws and the Rules. Each holder of a Series B-1 Membership shall also be entitled to all trading rights and privileges for all new products first made available after the filing of this Certificate of Incorporation traded on the open outcry exchange system of the Corporation or Chicago Mercantile Exchange Inc. (“CME Exchange”) or any electronic trading system maintained by the Corporation or CME Exchange or any of their respective successors or successors-in-interest, and the Board of Directors of the Corporation shall enforce this requirement.

(b) *Series B-2 Memberships.* Each holder of a Series B-2 Membership who satisfies the qualifications for and requirements of Associate Membership in the Corporation as set forth in the Rules shall be entitled to

the rights and privileges of, and shall be subject to the restrictions, conditions and limitations on, an Associate Member as set forth in this Certificate of Incorporation, the Bylaws and the Rules.

*(c) Series B-3 Memberships.*

(1) Each holder of a Series B-3 Membership who satisfies the qualifications for and requirements of being a holder of a one-half Associate Membership as set forth in clause (2) of Rule 296.00 of the Rules shall be entitled to the rights and privileges of, and subject to the restrictions, conditions and limitations on, a holder of a one-half Associate Membership as set forth in this Certificate of Incorporation, the Bylaws and the Rules.

(2) Each holder of a Series B-3 Membership who satisfies the qualifications for and requirements of being a holder of a GIM Membership Interest in the Corporation as set forth in clause (1) of Rule 296.00 of the Rules shall be entitled to the rights and privileges of, and shall be subject to the restrictions, conditions and limitations on, a holder of a GIM Membership Interest as set forth in this Certificate of Incorporation, the Bylaws and the Rules.

*(d) Series B-4 Memberships.* Each holder of a Series B-4 Membership who satisfies the qualifications for and requirements of being a holder of an IDEM Membership Interest in the Corporation as set forth in the Rules shall be entitled to the rights and privileges of, and shall be subject to the restrictions, conditions and limitations on, a holder of an IDEM Membership Interest as set forth in this Certificate of Incorporation, the Bylaws and the Rules.

*(e) Series B-5 Memberships.* Each holder of a Series B-5 Membership who satisfies the qualifications for and requirements of being a holder of a COM Membership Interest in the Corporation as set forth in the Rules shall be entitled to the rights and privileges of, and shall be subject to the restrictions, conditions and limitations on, a holder of a COM Membership Interest as set forth in this Certificate of Incorporation, the Bylaws and the Rules.

(f) In addition to the rights and privileges set forth above, except as otherwise provided in the Certificate of Incorporation, the Bylaws or the Rules, each holder of a Class B Membership of any Series shall be entitled to all trading rights and privileges with respect to those products that such holder is entitled to trade on the open outcry exchange system of the Corporation or any electronic trading system maintained by the Corporation or any of its successors or successors-in-interest.

*2. Series B-1 Membership and B-2 Membership Voting Rights; Certain Covenants.*

(a) In addition to any approval of the Board of Directors of the Corporation required by this Certificate of Incorporation, the Bylaws or applicable law, the affirmative vote of the holders of a majority of the votes cast by the holders of Series B-1 Memberships and Series B-2 Memberships, voting together as a class based on their respective voting rights at any annual or special meeting of the Corporation, shall be required to adopt (subject to the immediately following sentence, by merger or otherwise) any amendment of, or any modification or repeal of any provisions contained in, Section B(2), Section C, Section D, Section E or Section F of Article IV or the second sentence of Article IX of this Certificate of Incorporation or, during the Transition Period (as defined in the bylaws of CME Group) Article VI. Notwithstanding the foregoing, the holders of Series B-1 Memberships and Series B-2 Memberships shall not be entitled to a vote on any merger, consolidation or reorganization of the Corporation that results, by operation of law or otherwise, in an amendment, modification or repeal of this Certificate of Incorporation so long as the rights and privileges of the holders of Series B-1 Memberships and Series B-2 Memberships set forth in Section B(2), Section C, Section D, Section E and Section F of Article IV and the second sentence of Article IX and, during the Transition Period, Article VI of this Certificate of Incorporation are preserved in the Certificate of Incorporation or other governing document of the surviving corporation of such transaction.

(b) In addition to any approval of the Board of Directors of the Corporation required by this Certificate of Incorporation, the Bylaws or applicable law, the affirmative vote of the holders of a majority of the votes cast, except in the case of paragraph (4) below, by the holders of Series B-1 Memberships and Series B-2 Memberships, voting together as a class based on their respective voting rights at any annual or special meeting of the Corporation, shall be required to adopt any amendment to this Certificate of Incorporation or the Bylaws or the Rules that, in the sole and absolute determination of the Board of Directors of the Corporation, adversely affects:

(1) the allocation of products that a holder of a specific Series of Class B Membership is permitted to trade on the exchange facilities of the Corporation (including both the open outcry trading system and the electronic trading system),

(2) the requirement that, except as provided in that certain Agreement, dated August 7, 2001, between the Corporation and the Chicago Board Options Exchange (the "CBOE"), as modified by that certain Letter Agreement, dated October 7, 2004, between the Corporation, CBOT Holdings, Inc. and the CBOE, in each case, as may be amended from time to time in accordance with their respective terms, holders of Class B Memberships who meet the applicable membership and eligibility requirements will be charged transaction fees for trades of the Corporation's products for their accounts that are lower than the transaction fees charged to any participant who is not a holder of Class B Membership for the same products, whether trading utilizing the open outcry trading system or the electronic trading system,

(3) the membership qualifications or eligibility requirements for holding any Series of Class B Membership or exercising any of the membership rights and privileges associated with such Series,

(4) the commitment to maintain open outcry markets set forth in Section E of Article IV of this Certificate of Incorporation, which must be approved by a majority of the voting power of the outstanding Series B-1 Memberships and Series B-2 Memberships, voting together as a class, or

(5) the ability of a Class B Member to engage in dual-trading, unless such amendment to the Bylaws or Rules is required, in the opinion of counsel, by applicable law or governmental rule or regulation.

For purposes of Section D(2)(b)(1) of Article IV, the allocation of products that the holders of any Series of Class B Membership are permitted to trade on the exchange facilities of the Corporation shall be deemed to be adversely affected only if a product is eliminated from the allocation of products the holders of a particular Series of Class B Memberships are permitted to trade.

(c) Following the date of filing of this Certificate of Incorporation, and unless otherwise agreed to by the Series B-1 Members and the Series B-2 Members voting together as a single class in accordance with Section C of this Article IV, the Corporation shall use commercially reasonable efforts to preserve the Exercise Right for the benefit of the Series B-1 Members and their delegates, including (i) defending any actions, suits or proceedings brought to challenge all or any portion of the Exercise Right and, in the event of an adverse ruling or determination, pursuing reasonable grounds for appeal, (ii) taking reasonable steps, including instituting actions, suits and proceedings and pursuing reasonable grounds for appeal, to secure for the Series B-1 Members and their delegates that have exercised the Exercise Right the right to receive any dividends or other distributions to be made by the CBOE to its members and (iii) complying with the Corporation's obligations under agreements with the CBOE regarding the Exercise Right, including making available to the CBOE the information specified in any such agreements or any surveillance plans with the CBOE; provided that the Corporation shall not be required in connection with its obligations under the foregoing clauses (i) and (ii) of this Section D(2)(c) of this Article IV of this Certificate of Incorporation to contribute to any settlement or satisfy the obligation of any third party.

(d) On any matter on which holders of Series B-1 Memberships and Series B-2 Memberships are entitled to vote pursuant to paragraphs (a) and (b) of this Section D(2) of Article IV, such holders of Series B-1 Memberships and Series B-2 Memberships shall be the only members of the Corporation entitled to vote thereon. Holders of Series B-1 Memberships and Series B-2 Memberships shall have no other voting rights except as expressly set forth herein and shall not have the right to take action by written consent in lieu of a meeting and shall have no right to initiate any proposal, at or for any meeting of members. One-third of the total voting power of the Series B-1 Memberships and Series B-2 Memberships present in person or by proxy shall constitute a quorum at any meeting to take action on the matters as to which such holders are entitled to vote pursuant to paragraphs (a) and (b) of Section D(2) of this Article IV. Series B-3 Memberships, Series B-4 Memberships and Series B-5 Memberships shall have no right to vote on any matters or to initiate any proposals at or for any meeting of members. For purposes of any vote of the holders of Series B-1 Memberships and Series B-2 Memberships permitted by this Certificate of Incorporation, the Board of Directors of the Corporation shall be entitled to fix a record date, and only holders of record as of such record date shall be entitled to vote on the matter to be voted on.

(e) During the period ending at the annual meeting of shareholders of CME Group to be held in 2012, the Corporation will provide the CBOT Directors (as defined in the bylaws of CME Group) with advance notice (a "Rule Change Notice") of any proposed change to the Rules (a "Proposed Rule Change"). If a majority of the CBOT Directors provide written notice to the Corporation (an "Initial Rejection Notice") within five (5) business days after delivery of the Rule Change Notice (the "Initial Rejection Notice Period") that they have determined in their sole discretion that any such Proposed Rule Change will materially impair the business of the Corporation or materially impair the business opportunities of the holders of the Class B Memberships, such Proposed Rule Change will be submitted to a committee of the Board of Directors of the Corporation (the "Rule Change Committee") comprised of three CBOT Directors designated by the Vice Chairman of the Corporation and two CME Directors designated by the Chairman of the Corporation for approval. Approval shall require the affirmative vote of a majority of the full Rule Change Committee. The Corporation shall not effect any Proposed Rule Change unless and until either (a) the Initial Rejection Notice Period terminates without the CBOT Directors providing an Initial Rejection Notice with respect to such Proposed Rule Change or (b) the Rule Change Committee approves such Proposed Rule Change.

### 3. *Conversion Rights of Series B-3 Memberships.*

(a) *Conversion.* Subject to, and upon compliance with, the provisions of this Section D(3) of Article IV, any two (2) Series B-3 Memberships shall be convertible at the option of the holder into one (1) Series B-2 Membership.

(b) *Mechanics of Conversion.* A holder of Series B-3 Memberships may exercise the conversion right specified in Section D(3)(a) of Article IV by delivering to the Corporation or any transfer agent of the Corporation written notice stating that the holder elects to convert such memberships, accompanied by the certificates or other instruments, if any, representing the memberships to be converted. Conversion shall be deemed to have been effected on the date when delivery of such written notice, accompanied by such certificate or other instrument, if any, is made, and such date is referred to herein as the Conversion Date.

As promptly as practicable after the Conversion Date, the Corporation may issue and deliver to or upon the written order of such holder a certificate or other instrument, if any, representing the number of Series B-2 Memberships to which such holder is entitled as a result of the exercise of such conversion right. The person in whose name the certificates or other instruments representing Series B-2 Memberships are to be issued shall be deemed to have become the holder of record of such Series B-2 Memberships on the applicable Conversion Date.

(c) *Memberships Reserved for Issuance.* The Corporation shall take all actions necessary to reserve and make available at all times for issuance upon the conversion of Series B-3 Memberships, such number of Series B-2 Memberships as are issuable upon the conversion of all outstanding Series B-3 Memberships.

E. *Commitment to Maintain Open Outcry Markets.* Subject to the terms and conditions of this Section E of Article IV, the Corporation shall maintain open outcry markets operating as of April 22, 2005 (the "Effective Date") and provide financial support to each such market for technology, marketing and research, which the Board of Directors of the Corporation determines, in its sole and absolute discretion, is reasonably necessary to maintain each such open outcry market.

Notwithstanding the foregoing or any other provision of this Certificate of Incorporation, the Board of Directors of the Corporation may discontinue any open outcry market at such time and in such manner as it may determine if (1) the Board of Directors determines, in its sole and absolute discretion, that a market is no longer "liquid" or (2) the holders of a majority of the voting power of the then outstanding Series B-1 Memberships and Series B-2 Memberships, voting together as a single class based on their respective voting rights, approve the discontinuance of such open outcry market.

For purposes of the foregoing, an open outcry market will be deemed "liquid" for so long as it meets either of the following tests, in each case as measured on a quarterly basis:

(a) if a comparable exchange-traded product exists, the open outcry market has maintained at least 30 percent (30%) of the average daily volume of such comparable product (including for calculation purposes, volume from Exchange-For-Physicals transactions in such open outcry market); or

(b) if no comparable exchange-traded product exists, the open outcry market has maintained at least 40 percent (40%) of the average quarterly volume in that market as maintained by the Corporation in 2001

(including, for calculation purposes, volume from Exchange-For-Physicals transactions in such open outcry market).

The commitment to maintain open outcry markets set forth in this Section E of Article IV will not apply to markets introduced after the Effective Date.

F. *Exercise Rights*. Subject to the terms and conditions of this Section F of Article IV of this Certificate of Incorporation:

1. Each holder of record on the official books and records of the Corporation as of May 29, 2007 of (I) a Series B-1 Membership in respect of which an Exercise Right Privilege (as defined in Rule 210(b) of the Rules) is issuable but has not been issued or (II) both (a) one or more Exercise Right Privileges and (b) a Series B-1 Membership shall have the right, exercisable during the forty five (45) day period (the "Offer Period") immediately following the effective time of the merger of CBOT Holdings, Inc. ("CBOT Holdings") with and into Chicago Mercantile Exchange Holdings Inc. ("CME Holdings") pursuant to the terms of that certain Agreement and Plan of Merger, dated as of October 17, 2006, as amended, among the Corporation, CBOT Holdings and CME Holdings, to sell any such Exercise Right Privilege to the Corporation for an amount equal to \$250,000 in cash (a "Purchase Offer"). In order to exercise the Purchase Offer, such holder must deliver to the Corporation prior to the expiration of the Offer Period (i) the Exercise Right Privilege and (ii) a duly executed assignment agreement in the form attached to this Certificate of Incorporation as Annex A (the "Assignment Agreement"). The Corporation shall make payment as provided in this Section F.1 to a holder who makes the required delivery of the Exercise Right Privilege and Assignment Agreement within thirty (30) days after the expiration of the Offer Period.

2. In the event of a Final Resolution (as defined below) pursuant to which the Class Members (as defined below) receive a recovery of cash, marketable securities or other property or rights with respect to each Exercise Right Privilege held by a Class Member and/or retain or are declared to have property or rights with respect to each Exercise Right Privilege held by a Class Member (collectively, a "Per ERP Recovery") with an aggregate Fair Market Value (as defined below) less than \$250,000, the Corporation shall pay to each such Class Member with respect to each such Exercise Right Privilege held by such Class Member an amount equal to the difference between \$250,000 and the Fair Market Value of the Per ERP Recovery so received or retained, as applicable, by such Class Member with respect to such Exercise Right Privilege held by such Class Member (a "Balance Payment"). In order for a Class Member to receive a Balance Payment with respect to an Exercise Right Privilege, such Class Member must provide evidence reasonably satisfactory to the Corporation that such Class Member received the Per ERP Recovery pursuant to the Final Resolution with respect to such Exercise Right Privilege. The Corporation shall make payment to such holder prior to the later of (i) thirty (30) days after delivery of the sufficient evidence contemplated by the immediately preceding sentence or (ii) thirty (30) days after the date the Fair Market Value of the Per ERP Recovery is determined in accordance with the terms of Section 5(e) of this Section F of Article IV of this Certificate of Incorporation.

3. In the event of the entry of a Zero Judgment (as defined below), the Corporation will pay to each Non-Recovery Class Member (as defined below) \$250,000 for each Exercise Right Privilege held by such Non-Recovery Class Member. The Corporation shall make payment to a Non-Recovery Class Member within thirty (30) days after the date the such person's status as a Non-Recovery Class Member is determined in accordance with the terms of Section 5(g) of this Section F of Article IV of this Certificate of Incorporation.

4. Notwithstanding anything to the contrary contained in this Section F of this Article IV of this Certificate of Incorporation, in no event shall the Corporation be required to pay in excess of \$250,000 in respect of any single Exercise Right Privilege.

5. For purposes of this Section F of Article IV of this Certificate of Incorporation, the term:

(a) "*CBOE Litigation*" means that litigation captioned *CBOT Holdings, Inc., et al. v. Chicago Board Options Exchange, Inc., et al., Civil Action No. 2369-VCN (Del. Ch. Ct.)*;

(b) "*Class Member*" means (i) if a class is certified by the Court in the CBOE Litigation, any member of such class or (ii) if a class is not certified by the Court in the CBOE Litigation, any person or entity who satisfies the definition of a member of the class as set forth in the Complaint, so long as the Exercise Right Privileges purchased by the Corporation pursuant to this Section may be used by a member of the class to participate in a Final Resolution (*provided, however*, that in no event shall CBOE or any direct or indirect transferee of an Exercise Right Privilege from CBOE be considered a "Class Member" for purposes of this Section F of this Article IV of this Certificate of Incorporation);

(c) “*Court*” means the Delaware Chancery Court presiding over the CBOE Litigation;

(d) “*Complaint*” means the complaint on file with the Court setting forth the claims in the CBOE Litigation as of the time of the Final Resolution;

(e) “*Date of Determination*” means the date of the Final Resolution giving rise to the need to determine Fair Market Value;

(f) “*Fair Market Value*” means, with respect to the components of any Per ERP Recovery, the sum of (1) the amount of cash received plus (2) the value of any marketable securities received, which shall be deemed to have a per security value equal to the average of the closing prices of such marketable security for the ten trading days ending on the day immediately proceeding the Date of Determination on the principal national securities exchange or inter-dealer quotation system on which such marketable securities are listed or admitted to trading plus (3) the value of any other property or rights received or retained, the value of such property or right being determined on the basis of an arm’s length transaction between a willing buyer and a willing seller based on then prevailing market conditions and taking into account all circumstances determined to be relevant to the establishment of such price at such time but disregarding any liquidity, minority, transferability or other discounts by an independent investment banking firm with a national reputation that is recognized to have expertise in valuations of such other property or rights selected by the CBOT Directors (or, if no CBOT Directors exist at such time, their successors) and approved by the full Board of Directors of the Corporation;

(g) “*Final Resolution*” means a final, non-appealable resolution of all claims of the Class Members set forth in the Complaint that is binding on all Class Members, which may include, without limitation (i) a judgment of the Court resolving the CBOE Litigation, (ii) a settlement resolving the CBOE Litigation confirmed by an order of the Court and (iii) if the CBOE Litigation is dismissed other than on its merits, a decision or order of, or settlement with, a governmental authority or third party arbitrator with respect to all claims of the Class Members set forth in the Complaint; *provided, however*, in the case of clauses (i) and (ii) that such settlement, decision or order does not prevent the Exercise Right Privileges purchased by the Corporation pursuant to this Section F of this Article IV of this Certificate of Incorporation from being used by a member of the class to participate in a Final Resolution;

(h) “*Non-Recovery Class Member*” means any person who provides evidence reasonably satisfactory to the Corporation that such person meets the requirements of a Class Member; and

(i) “*Zero Judgment*” means a Final Resolution pursuant to which the Class Members do not receive or retain, as applicable, any Per ERP Recovery.

6. The Board of Directors of the Corporation shall be authorized to adopt, change or waive any Rule as it deems necessary or advisable to enable the Corporation to acquire or dispose of Exercise Right Privileges in order to satisfy its obligations under this Section F of this Article IV of this Certificate of Incorporation and to realize the value of the Exercise Right Privileges acquired pursuant to paragraph 1 of this Section F of this Article IV of this Certificate of Incorporation. The provisions of Section D(2)(e) of this Article IV of this Certificate of Incorporation shall not apply to any adoption, change or waiver of a Rule pursuant to this paragraph 6 of this Section F of this Article IV of this Certificate of Incorporation; *provided*, that nothing in this paragraph 6 of this Section F of this Article IV of this Certificate of Incorporation shall be interpreted to permit the Corporation to impose fees, costs or expenses on Class B Members in order to acquire the Exercise Right Privileges.

## ARTICLE V

### MANAGEMENT OF AFFAIRS

The following provisions are inserted for the management of the business and the conduct of the affairs of the Corporation, and for further definition, limitation and regulation of the powers of the Corporation and of its directors and members:

A. In accordance with Sections 141(a) and 141(j) of the DGCL, the business and affairs of the Corporation shall be managed by or under the direction of the Board of Directors of the Corporation. In addition to the powers and authority expressly conferred upon them by statute or by this Certificate of Incorporation or the Bylaws, the directors are hereby empowered to exercise all powers and do all acts and

things as may be exercised or done by the Corporation, subject, nevertheless, to the provisions of the DGCL, this Certificate of Incorporation and any Bylaws adopted by the Class A Member; provided, however, that no Bylaws hereafter adopted by a member of the Corporation shall invalidate any prior act of the directors which would have been valid if such Bylaws had not been adopted.

B. A special meeting of members shall be called by the Chairman of the Board or the Board of Directors of the Corporation upon receipt by the Chairman of the Board or the Secretary of the Corporation of a written demand of a majority of the directors then holding office.

C. Any action required or permitted to be taken by the members of the Corporation must be effected at a duly called annual or special meeting of members of the Corporation and may not be effected by any consent in writing by such members, provided that the Class A Member shall have the right to effect by consent in writing any action which would require the approval of the Class A Member at a duly called annual or special meeting of the members of the Corporation.

## **ARTICLE VI BOARD OF DIRECTORS**

The number of directors of the Corporation shall be as from time to time fixed by, or in the manner provided in, the Bylaws. Election of directors need not be by written ballot unless the Bylaws so provide. The Board of Directors of the Corporation shall at all times be comprised of the same directors as those of CME Group.

## **ARTICLE VII AMENDMENT OF BYLAWS**

The Board of Directors of the Corporation is expressly empowered to adopt, amend or repeal the Bylaws of the Corporation. The Class A Member shall also have power to adopt, amend or repeal the Bylaws. The only member of the Corporation with any power to adopt, amend or repeal the Bylaws of the Corporation shall be the Class A Member, and no other member of, or class or series of membership in, the Corporation shall have any such power. Except as specifically provided in the Rules, no member of, or class or series of membership in, the Corporation shall have any power to adopt, amend or repeal the Rules.

## **ARTICLE VIII LIMITATION OF LIABILITY**

A director of the Corporation shall not be personally liable to the Corporation or its members for monetary damages for breach of fiduciary duty as a director, except for liability (A) for any breach of the director's duty of loyalty to the Corporation or its members, (B) for acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law, (C) under Section 174 of the DGCL, or (iv) for any transaction from which the director derived an improper personal benefit. If the DGCL is amended to authorize corporate action further eliminating or limiting the personal liability of directors, then the liability of a director of the Corporation shall be eliminated or limited to the fullest extent permitted by the DGCL, as so amended.

Any repeal or modification of the foregoing paragraph shall not adversely affect any right or protection of a director of the Corporation existing at the time of such repeal or modification. For purposes of this Article VIII, the term "director" shall, to the fullest extent permitted by the DGCL, include any person who, pursuant to this Certificate of Incorporation, is authorized to exercise or perform any of the powers or duties otherwise conferred upon a board of directors by the DGCL.

## **ARTICLE IX AMENDMENT OF CERTIFICATE OF INCORPORATION**

The Corporation reserves the right to amend, modify or repeal any provision contained in this Certificate of Incorporation in the manner prescribed by the laws of the State of Delaware, and all rights conferred upon the members of the Corporation are granted subject to this reservation. Any amendment of, or modification or repeal of any provision contained in, Section B(2), Section C, Section D, Section E or Section F of Article IV or this sentence of this Article IX or, during the Transition Period, Article VI of this Certificate of Incorporation (subject to the last



sentence of Section D(2)(a) of Article IV, by merger or otherwise) shall require, first, the approval of the Board of Directors of the Corporation and, second, the approval of a majority of the votes cast by the Series B-1 Members and Series B-2 Members, voting together as a single class in accordance with Section C of Article IV. Except as provided in the immediately preceding sentence, any amendment of, or modification or repeal of any provision contained in, this Certificate of Incorporation shall require, first, the approval of the Board of Directors of the Corporation and, second, the approval of the Class A Member and no other member or series or class of membership shall have the right to vote on any such amendment or repeal.

\* \* \* \*

**[Form of Assignment Agreement for the sale of Exercise Right Privilege]**

The undersigned (the "*Selling ERP Holder*") is the holder of record on the official books and records of the Board of Trade of the City of Chicago ("*CBOT*") as of May 29, 2007 of (I) a Series B-1 Membership (as defined in the Amended and Restated Certificate of Incorporation of CBOT (the "*Certificate of Incorporation*")) in respect of which an Exercise Right Privilege (as defined in Rule 210(b) of the Rules and Regulations of CBOT) (referred to hereinafter as an "*ERP*") is issuable but has not been issued or (II) both (a) an ERP and (b) a Series B-1 Membership and proposes to sell such ERP to CBOT for an amount equal to \$250,000 in cash pursuant to Section F of Article IV of the Certificate of Incorporation.

The Selling ERP Holder understands that CBOT only has a commitment to purchase an ERP for which delivery of the ERP together with this Assignment Agreement, duly executed by the Selling ERP Holder, is made to CBOT during the forty-five (45) day period immediately following the effective time of the merger of CBOT Holdings, Inc. ("*CBOT Holdings*") with and into Chicago Mercantile Exchange Holdings Inc. ("*CME Holdings*") pursuant to the terms of that certain Agreement and Plan of Merger, dated as of October 17, 2006, as amended, among the CBOT, CBOT Holdings and CME Holdings.

1. The Selling ERP Holder represents and warrants to CBOT that:

a. The Selling ERP Holder has valid title to the ERP, free and clear of all security interests, claims, liens, equities or other encumbrances ("*Liens*"), and has the legal right and power, and all authorization and approval required by law or the certificate of incorporation or by-laws (or equivalent organizational documents) of the Selling ERP Holder (if the Selling ERP Holder is not a natural person), to enter into this Assignment Agreement and to sell, transfer and deliver the ERP to be sold by such Selling ERP Holder. When the ERP is delivered to and paid for by CBOT in accordance with the terms of this Assignment Agreement and the Certificate of Incorporation, CBOT will have valid title to the ERP, free and clear of all Liens.

b. The execution and delivery by the Selling ERP Holder of, and the performance by the Selling ERP Holding of its obligations under, this Assignment Agreement will not contravene any provisions of applicable law, or the certificate of incorporation or by-laws (or equivalent organizational documents) of the Selling ERP Holder (if the Selling ERP Holder is not a natural person), or any agreement or other instrument binding upon the Selling ERP Holder or any judgment, order or decree of any governmental body, agency or court having jurisdiction over the Selling ERP Holder, and no consent, approval authorization or order of, or qualification with, any governmental body or agency is required for the performance by the Selling ERP Holder of its obligations under this Assignment Agreement.

c. The Selling ERP Holder did not acquire the ERP in a transfer directly or indirectly from the Chicago Board Options Exchange, Inc.

2. CBOT shall make payment to the Selling ERP Holder in accordance with Section F of Article IV of the Certificate of Incorporation to the account set forth on the signature page hereto.

3. This Assignment Agreement shall be governed by the internal laws of the State of Delaware, without regard to conflict of law principles.

In witness whereof, the undersigned has duly executed this Assignment Agreement this \_\_\_\_\_ day of \_\_\_\_\_, 2007.

\_\_\_\_\_  
Signature of Selling ERP Holder

Selling ERP Holder:

Name: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

Phone: \_\_\_\_\_

Selling ERP Holder hereby authorizes CBOT to remit the proceeds from the sale of the ERP to CBOT to the following account:

Bank Name: \_\_\_\_\_

Bank Address: \_\_\_\_\_

ABA#: \_\_\_\_\_

Account#: \_\_\_\_\_

Account Name: \_\_\_\_\_

**[Signature Page to Assignment Agreement for the Sale of Exercise Right Privilege]**