

(Recommended changes from the Constitution and Rules of the Exchange and other Exchange documents referenced below, as currently in effect, are highlighted by underscoring additions and ~~striking through~~ deletions.)

CHICAGO BOARD OPTIONS EXCHANGE, INCORPORATED

CONSTITUTION

Article I Definitions

Section 1.1 When used in this Constitution, except as expressly otherwise provided or unless the context otherwise requires:

(a) The term "Exchange" means the Chicago Board Options Exchange, Incorporated or its exchange market.

(b) The term "member" means an individual member or a member organization of the Exchange (or a registered nominee of such a member organization) that is a regular member in good standing described in Section 2.1(b) of Article II of the Constitution.

(c) The term "member organization" means a partnership or corporation which owns or leases a membership, or a partnership or corporation for which a membership is registered in accordance with Section 2.4 of Article II of the Constitution.

(d) The term "Board" means the Board of Directors of the Exchange.

(e) The term "Rules" means the rules of the Exchange as adopted or amended from time to time.

Article II Membership

Section 2.1 Number of Memberships

(a) Membership in the Exchange shall be made available by the Exchange at such times, under such terms and in such number as shall be proposed by the Board and approved by the affirmative vote of the majority of voting ~~the~~ members present in person or represented by proxy at a regular or special meeting of the membership. Such an affirmative vote by the members shall be required for the issuance of all new memberships, whether regular or special, whether having expanded or limited rights, whether designated memberships or permits or as a classification using any other description, which grant the holders thereof the right to enter into securities transactions at the Exchange.

(b) The regular membership of the Exchange shall consist of persons who acquire regular memberships made available by the Exchange in accordance with the Rules, and shall also consist of those members of the Board of Trade of the City of Chicago who, pursuant to paragraph (b) of Article FIFTH of the Certificate of Incorporation, elect to apply for membership and are approved for membership in accordance with the Rules. Except as otherwise expressly provided in the Certificate of Incorporation, the Constitution or the Rules, every regular member of the Exchange shall be entitled to the same rights and privileges, and shall be subject to the same obligations, as every other regular member.

(c) [Reserved for special memberships.]

(d)(1) Seventy-five "Options Trading Permits" ("Permits") shall be issued or made available for leasing in accordance with the Rules. All Permits shall expire, and all rights of their holders shall cease, on the seventh anniversary of the date determined pursuant to agreement between the Exchange and the New York Stock Exchange ("NYSE") on which trading begins on the floor of the Exchange in options that were listed on the NYSE.

(2) Permit holders shall have no right to petition or to vote at Exchange membership meetings or elections or to be counted as part of a quorum, shall have no interest in the assets or property of the Exchange and no right to share in any distribution by the Exchange, and shall have none of the other rights or privileges accorded members under any provision of the Constitution and Rules other than those specified in the Rules.

Section 2.2 Eligibility for Membership; Good Standing

Membership shall be limited to individuals, partnerships and corporations, subject to their meeting the conditions of approval as stated in the Constitution and Rules. Members must have as the principal purpose of their membership the conduct of a public securities business as defined in the Rules.

The good standing of a member may be suspended, terminated or otherwise withdrawn, as provided in the Rules, if any of said conditions for approval cease to be maintained or the member violates any of its agreements with the Exchange or any of the provisions of the Constitution or the Rules. Unless a member is in good standing, the member shall have no rights or privileges of membership except as otherwise provided by statute, the Certificate of Incorporation, the Constitution or the Rules, shall not hold himself or itself out for any purpose as a member, and shall not deal with the Exchange on any basis except as a non-member.

Section 2.3 Nominees of Member Organizations

Every applicant for membership as a member organization and every member organization shall, in accordance with the Rules, designate an individual nominee with respect to each membership owned or leased by it, who shall be subject to the same requirements for approval as if he were himself applying for membership as an individual member and shall be authorized to represent the organization in all matters relating to the Exchange.

Section 2.4 Registration of Individual Memberships for Member Organizations

Every individual member or applicant who is or intends to become an executive officer, director, principal shareholder or general partner of an organization engaged or proposing to engage in business as a broker or dealer in options may apply to register his membership for such organization. Additional individual members may register their memberships for a member organization in accordance with the Rules. Such organization shall be subject to the same requirements for approval as if it were itself applying for membership as a member organization, except that the individual member so applying shall represent the organization in lieu of a nominee. Registration of an individual membership for an organization may be withdrawn by the Exchange for any reason which would justify withdrawal of the approval of either the individual or the organization for membership.

Section 2.5 Acquisition and Transfer of Memberships

Memberships acquired pursuant to paragraph (b) of Article FIFTH of the Certificate of Incorporation shall not be transferable. All other memberships may be offered for sale and transferred by the owners thereof, or under certain circumstances by the Exchange, as provided in the Rules.

Section 2.6 Voting and Other Rights and Powers

Each regular member shall have the voting rights and power provided by law and by the Certificate of Incorporation and the Constitution.

Article III Meetings of Members

Section 3.1 Place of Meetings

Each meeting of the members shall be held at such a place, within or without the State of Delaware, as the ~~Secretary Board~~ may designate prior to the giving of notice of such meeting, but if no such designation is made, then on the fourth floor of the Exchange.

Section 3.2 Annual Election Meeting

An annual election meeting of members shall be held on the 1st business day preceding the 3rd Friday in November of each year ~~unless such day is a legal holiday, in which case on the next succeeding business day which is not a legal holiday~~, at such time as may be designated by the ~~Secretary Board~~ prior to the giving of notice of the meeting, for the purpose of electing directors to fill expiring terms and any vacancies in unexpired terms and electing members of the Nominating Committee to fill expiring terms and any vacancies in unexpired terms.

Section 3.3 Annual Report Meeting

An annual report meeting of members shall be held within 120 days following the end of the Exchange's fiscal year, at a time as determined by the ~~Secretary Board~~, for the purpose of presentation of the Exchange's annual report as provided for in Section 6.11 of the Constitution ~~transacting such business as may properly be brought before the meeting~~.

Section 3.4 Special Meetings

Special meetings of members, for any purpose or purposes, unless otherwise prescribed by statute or by the Certificate of Incorporation, may be called by the Chairman of the Board, the Vice Chairman of the Board or the Board of Directors, and shall be called by the Secretary at the request in writing of 150 voting members, provided that such request shall state the purpose or purposes of the proposed meeting and the day and hour at which such meeting shall be held.

Section 3.5 Notice of Members' Meetings

Unless otherwise prescribed by statute, the Certificate of Incorporation, the Constitution or the Rules, written notice of each meeting of members at which a vote of members is to be taken, stating the date, time and place thereof, and, in the case of special meetings, the purpose or purposes for which such

meeting is called, shall be ~~given~~ delivered to each member entitled to vote thereat not more than 60 days and at least 10 days before the date of the meeting.

Section 3.6 Quorum and Adjournments

Except as otherwise provided by statute, the Certificate of Incorporation or the Constitution, a majority of the members entitled to vote, when present in person or represented by proxy, shall constitute a quorum at all meetings of members for the transaction of business, provided that in respect to uncontested elections, one-third of the members entitled to vote, when present in person or represented by proxy, shall constitute a quorum. If such quorum shall not be present or represented by proxy at any meeting of members, a majority of the members present in person or represented by proxy at the meeting shall have power to adjourn the meeting from time to time, without notice other than announcement at the meeting unless otherwise required by statute, until a quorum shall be present or represented. At any such adjourned meeting at which a quorum is present, any business may be transacted which might have been transacted at the meeting as originally notified. Nothing in the Constitution shall affect the right to adjourn a meeting from time to time where a quorum is present.

Section 3.7 Voting by Members

With respect to any question brought before a meeting, when a quorum is present, a majority of voting members present in person or represented by proxy shall decide the question, unless the question is one upon which by express provision of statute, the Certificate of Incorporation or the Constitution, a different vote is required, in which case such express provision shall govern and control. Voting on any question brought before any meeting of members shall be, so far as applicable, in accordance with the procedure provided by Article V of the Constitution for the conduct of the annual election.

Section 3.8 Determination of Members of Record

(a) The Board of Directors may fix a record date to determine the members entitled to notice of and to vote at a meeting of the members or any adjournment thereof ("Record Date"). The Record Date shall not be more than 60 days nor less than 10 days before the date of the meeting.

(b) If no Record Date is fixed by the Board of Directors for a meeting of members, the Record Date for the meeting shall be at the close of business on the day preceding the date on which notice of the meeting is given by the Exchange.

(c) A Record Date shall apply to any adjournment of a meeting of members; provided, however, that the Board of Directors may fix a new Record Date for the adjourned meeting.

Article IV Nominations

Section 4.1 Nominating Committee

(a) There shall be a Nominating Committee composed of four members who are primarily engaged in business on the floor of the Exchange in the capacity of a member (floor members); two ~~persons~~ ~~members~~ who are officers of member organizations that primarily conduct a non-member public customer business (firm members); two ~~persons~~ ~~members~~ each of whom directly or indirectly owns and controls (as defined in Section 6.1(a)) one or more memberships in respect of which he acts solely as lessor

(lessor members), at least one of whom is not actively engaged in business as a "broker-dealer" or as a "person associated with a broker-dealer" as those terms are defined in the Securities Exchange Act of 1934; and two representatives of the public (public members).

(b) All of the members of the Nominating Committee shall be elected by the voting members of the Exchange. ~~In the 1999 annual election meeting, one floor member shall be elected for a three year term, and two firm members, two lessor members and two public members shall be elected, one firm member, one lessor member and one public member for terms expiring at the second annual election meeting following the 1999 annual election meeting, and one firm member, one lessor member and one public member for terms expiring at the third annual election meeting following the 1999 annual election meeting. In the 2000 annual election meeting, one floor member shall be elected for a three year term. At each subsequent annual election meeting, members of the Nominating Committee shall be elected to succeed those whose terms expire, each to serve for a term expiring at the third succeeding annual election meeting and until their successors are duly elected and qualified or until their earlier death, resignation or removal. Elected members of the Nominating Committee shall be ineligible for reelection for a period of three years after their terms expire; provided that this limitation shall not apply to any member of the Nominating Committee whose most recent term on the Nominating Committee was less than three years.~~

Section 4.2 Nominating Committee Vacancies

Any vacancy occurring among the members of the Nominating Committee may be filled by a qualified person appointed by the Vice Chairman of the Board with the approval of the Board ~~to hold office until the next annual election meeting, at which time a qualified successor shall be elected to serve the unexpired term, if any, of his predecessor in office. The term of any Nominating Committee member so chosen shall be from the date of appointment until the next annual election meeting and until the person's successor is duly elected and qualified or until the person's earlier death, resignation or removal. The remaining portion of the unexpired term of a Nominating Committee member, if any, shall be served by a person elected at the next annual election meeting.~~

Section 4.3 Nominating Procedure

~~During October of each year the~~ The Nominating Committee shall hold at least three meetings, at least two of which shall be open to the membership, for the purpose of selecting not less than one nominee for each of the following offices to be voted upon at the following annual election meeting:

- (a) Directors to fill expiring terms and vacancies.
- (b) Nominating Committee members to fill expiring terms and vacancies.

The Nominating Committee shall select nominees to fulfill the requirements of Sections 6.1 and 4.1 of the Constitution with an obligation to have the various interests of the membership represented on the Board and the Nominating Committee, respectively.

Notice of each of the meetings of the Nominating Committee shall be posted on the Exchange bulletin board ~~on the floor of the Exchange.~~

The Nominating Committee shall post its nominees of Directors and Nominating Committee members on the Exchange bulletin board not later than October 10th, or the first business day thereafter if October 10th is not a business day.

Section 4.4 Replacement Nominees

In the event any nominee named by the Nominating Committee withdraws or becomes ineligible, the Nominating Committee may select an additional qualified nominee to replace the withdrawn or ineligible nominee, and it shall select an additional qualified nominee if, as a result of the withdrawal or ineligibility, there is not at least one nominee for each of the offices to be elected.

Section 4.5 Nomination by Petition

Nominations of candidates for election to the Board or the Nominating Committee may be made by petition, signed by not less than 100 voting members of the Exchange and filed with the Secretary no later than 5:00 p.m. (Chicago time) on the Monday preceding the 1st Friday in November, or the first business day thereafter in the event that Monday occurs on a holiday.

Section 4.6 Posting of Names of Nominees

Names of nominees and replacement nominees selected by the Committee and nominees named by petition shall, immediately following their selection, be given to the Secretary who shall promptly post them upon the Exchange bulletin board.

Section 4.7 Qualifications of Nominees

Candidates for election to the Board or the Nominating Committee, whether nominated by the Nominating Committee or by petition, shall be eligible for election in any of the categories for which they qualify both at the time of their nomination and at the time of their election. The sole judge of whether a candidate satisfies the applicable qualifications for election to the Board or the Nominating Committee in a designated category shall be the Nominating Committee in the case of candidates nominated by that Committee, and shall be the Executive Committee in the case of candidates nominated by petition, and the decision of the respective committee shall be final.

Section 4.8 Qualifications of Nominating Committee Members

Following election or appointment to the Nominating Committee, each Nominating Committee member must continuously satisfy the applicable qualifications for service on the Nominating Committee. The sole judge of whether a Nominating Committee member satisfies the applicable qualifications for service on the Nominating Committee shall be the Board of Directors. Notwithstanding the foregoing, a member of the Nominating Committee who fails to maintain the applicable qualifications will be allowed 45 days from the date when the Board determines the Nominating Committee member is unqualified in which to requalify. During any such period up until the time when the Nominating Committee member requalifies, the Nominating Committee member shall be deemed not to hold office and the seat formerly held by the Nominating Committee member shall be deemed to be vacant for all purposes. The Board of Directors shall be the sole judge of whether the Nominating Committee member has requalified.

Section 4.9 Removal of Nominating Committee Members

In the event of the refusal, failure, neglect, or inability of any Nominating Committee member to discharge that person's duties, or for any cause affecting the best interests of the Exchange, the sufficiency of which the Board of Directors shall be the sole judge, the Board shall have the power, by the affirmative vote of at least two-thirds of the Directors then in office, to remove that Nominating Committee member from the Committee.

Article V Conduct of Annual Election

Section 5.1 Election Committee

The Vice Chairman of the Board, with the approval of the Board, shall appoint not less than three tellers, none of whom may be a member of the Exchange or a partner or officer of a member organization, who shall constitute a Committee to conduct the annual election. The Committee shall have authority to decide all questions pertaining to the conduct of the annual election, and its decision shall be final.

Section 5.2 Voting Procedure

(a) Immediately following the expiration of the time within which nominations may be made by petition, the Secretary shall prepare a ballot listing all candidates nominated for offices to be voted upon at the annual election, the order of the listing to be determined by lot. A ballot, a form of proxy, an envelope marked "For Ballot Only" and a return envelope shall be mailed by the Secretary to each member eligible to vote, together with the notice of the annual election. Members may vote, either in person or by proxy, by marking the ballot which shall remain unsigned and sealing the same in the unmarked ballot envelope. Members desiring to vote by proxy shall mail or deliver the sealed ballot, accompanied by a signed proxy card, to the Secretary so that it is received by the Secretary prior to the election. At the election, members voting in person shall deliver their sealed ballot envelopes to at least two members of the Election Committee, who shall keep a list of the members voting and shall place the sealed ballot envelopes in the ballot box. ~~Following the completion of voting in person, the~~ The Secretary shall deliver to the Election Committee all of the proxies, each with its accompanying sealed ballot envelope. At least two members of the Election Committee shall check the names of the members voting by proxy on the voting list, file the proxies, and place the sealed ballot envelopes in the ballot box.

(b) The Exchange may permit electronic submission of ballots and proxies, or implement a confidential electronic voting process, in a form and manner prescribed by the Exchange. The Exchange may modify the procedures in paragraph (a) of this Section to accommodate electronically submitted voting materials and votes.

Section 5.3 Counting of Ballots

Following the conclusion of the annual election meeting, the Election Committee shall count all of the properly submitted votes. ~~When all of the ballots properly submitted at the election have been placed in the ballot box, members of the Election Committee shall open the ballot box and the sealed ballot envelopes, and shall count the ballots.~~ A plurality of the votes shall elect the directors; *provided, however*, that where a plurality of votes cast would not elect the number of directors from each of the categories specified in Section 6.1, then the specified number of candidates from each of such categories who receive the highest votes among all those candidates in each such category shall be elected in lieu of those candidates who receive what would otherwise be the lowest winning pluralities. A plurality of the votes shall elect the members of the Nominating Committee; *provided, however*, that in the same manner as described above for the election of directors, in any case where a plurality of votes cast would not elect the number of members of the Nominating Committee from each of the categories specified in Section 4.1, then the specified number of candidates in each such category who receive the highest votes among all candidates in that category shall be elected. The Election Committee shall cause election results to be posted on the Exchange bulletin board ~~on the floor of the Exchange.~~

Article VI
Board of Directors

Section 6.1 Number, Election and Term of Office of Directors

(a) The Board of Directors shall consist of 22 Directors as described below and the Chairman of the Board, who by virtue of his office shall be a member of the Board. The Directors elected by the membership shall be divided into three classes which, commencing with the 2002 annual election meeting, shall be composed as follows:¹

Class I shall consist of one member who directly or indirectly owns and controls a membership and is primarily engaged in business on the floor of the Exchange in the capacity of a member (floor director), one person member who directly or indirectly owns and controls a membership with respect to which he acts solely as lessor and who is not actively engaged in business as a "broker-dealer" or as a "person associated with a broker-dealer" as those terms are defined in the Securities Exchange Act of 1934, (lessor director), and three persons who are not members and non-members who are not broker-dealers or persons affiliated with broker-dealers (public directors).

Class II shall consist of one floor director, one person member who functions as a member in any recognized capacity either individually or on behalf of a member organization (at-large director), two persons members who are executive officers of member organizations that primarily conduct a non-member public customer business and are not individually engaged in business on the Exchange floor (off-floor directors) and four public directors.

Class III shall consist of two floor directors, one at-large director, two off-floor directors and four public directors.

The ordinary place of business of at least one of the two off-floor directors in each Class shall be a location more than 80 miles from the Exchange's trading floor.

For purposes of this Section 6.1, a person member shall be considered to directly own and control a membership only if the person member individually and directly owns of record and beneficially all right, title and interest in the membership, and a person member shall be considered to indirectly own and control a membership only if the person member (A) has the sole and exclusive right to vote the membership and control its sale, and (B) is in possession of and subject to all of the risks and rewards of a direct owner of at least a fifty percent (50%) interest in a membership, either through ownership of an equity interest in a member organization or of a beneficial interest in a trust, which in either case is the owner of one or more memberships as permitted under the Rules.

(b) The terms of Class I, Class II and Class III directors shall terminate following the annual election meetings to be held in 2002, 2003 and 2004, respectively. At the 2002 annual election meeting, all of the Class I directors shall be elected for three-year terms, and directors shall be elected to fill vacancies in Classes II and III. At each subsequent annual election meeting ~~meetings~~, the directors ~~of each class~~ shall be elected for three year terms to succeed those whose terms are then about to expire, and they shall

¹ Prior to the 2002 annual election meeting, the three classes of Directors elected by the membership are composed as follows: Class I: one floor director, one at-large director, one lessor director, two off-floor directors, and two public directors; Class II: one floor director, one at-large director, two off-floor directors, and three public directors; Class III: two floor directors, one at-large director, two off-floor directors, and three public directors.

hold office for the terms for which elected and until their successors shall have been duly elected and qualified, or until their earlier death, resignation or removal. The term of office of each director elected at an annual election meeting shall commence on January 1st of the year following that annual election meeting and shall continue until December 31st of the final year of the director's term of office. ~~Terms of office of directors shall expire at the first regular meeting of the Board of Directors held on or after January 1 following the annual election meetings at which their successors are elected.~~

Section 6.2 Powers of the Board

The Board of Directors shall be the governing body of the Exchange and shall be vested with all powers necessary for the management of the business and affairs of the Exchange and for the promotion of its welfare, objects and purposes. The Board shall regulate the business conduct of members and may exercise all such powers of the Exchange and do all such lawful acts and things as are not by statute, the Certificate of Incorporation, the Constitution or the Rules directed or required to be exercised or done by members. In the exercise of such powers, the Board may organize such subsidiary corporations, impose such fees and charges, adopt or amend such Rules, issue such orders and directions, and make such decisions as it deems necessary or appropriate. It may prescribe and impose penalties for violations of the Constitution or Rules, for neglect or refusal to comply with orders, directions or decisions of the Board, or for any other offenses against the Exchange.

Section 6.3 Resignation, Disqualification and Removal of Directors

(a) A Director may resign at any time by giving written notice of his resignation to the Chairman of the Board or the Secretary, and such resignation, unless specifically contingent upon its acceptance, will be effective as of its date or of the date specified therein.

(b) In the event (i) any Director other than a public director ceases to be a member or executive officer of a member organization or (ii) the number of Directors in any designated category within a Class falls below the number for that category and Class (as specified in Section 6.1) because of the failure of a Director to maintain the qualifications for the designated category, of which failure the Board of Directors shall be the sole judge, the Director shall thereupon cease to be a Director, his office shall become vacant and the vacancy may be filled ~~at the next scheduled meeting of~~ by the Board of Directors with a person who qualifies for the category in which the vacancy exists, ~~provided that~~ Notwithstanding the foregoing:

(A) A Director who fails to maintain the applicable qualifications will be allowed the later of (i) 45 days from the date when the Board determines the Director is unqualified or (ii) until the next regular Board meeting following the date when the Board makes such determination, in which to requalify. During any such period up until the time when the Director requalifies, the Director shall be deemed not to hold office and the seat formerly held by the Director shall be deemed to be vacant for all purposes. The Board of Directors shall be the sole judge of whether the Director has requalified.

(B) A Director other than a public director whose membership is suspended may remain a Director during the period of suspension unless he is removed pursuant to paragraph (c) of this Section.

(c) In the event of the refusal, failure, neglect or inability of any Director to discharge his duties, or for any cause affecting the best interests of the Exchange the sufficiency of which the Board of Directors shall be the sole judge, the Board shall have the power, by the affirmative vote of at least two-thirds of the Directors then in office, to remove such Director and declare his office vacant.

Section 6.4 Filling of Vacancies

Any vacancy in the Board of Directors resulting from a Director ceasing to hold office prior to the expiration of his term may be filled by a person who is qualified to fill the position on ~~serve in the category~~ of the Board in which the vacancy exists and who is appointed by the affirmative vote of a majority of the Directors then in office, ~~and~~ The term of any Director so chosen shall ~~serve~~ be from the date of appointment until December 31st of the year of appointment ~~the next annual election meeting~~ and ~~until his~~ the Director's successor is duly elected and qualified or until the Director's earlier death, resignation or removal. The remaining portion of the unexpired term of a Director, if any, shall be served by a Director elected at such next annual election meeting.

Section 6.5 Quorum

At all meetings of the Board, two-thirds of the number of Directors then in office shall constitute a quorum for the transaction of business, and the vote of a majority of the Directors present at any meeting at which a quorum is present shall be the act of the Board, except as may be otherwise specifically provided by statute, the Certificate of Incorporation, the Constitution or the Rules. If a quorum shall not be present at any meeting of the Board, a majority of the Directors present thereat may adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum shall be present

Section 6.6 Regular Meetings

Regular meetings of the Board shall be held at such time and at such place as shall from time to time be provided by resolution of the Board without notice other than such resolution.

Section 6.7 Special Meetings

Special meetings of the Board may be called by the Chairman of the Board or the Vice Chairman of the Board and shall be called by the Secretary upon the written request of any 4 Directors. The Secretary shall give at least one hour's notice of such meeting to each Director, either in person, by mail, messenger, overnight courier, facsimile machine, electronic mail, telephone, or by announcement on the Exchange floor during trading hours on business days, ~~or personally, or by mail, telegram or cablegram~~. 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, the Constitution or the Rules.

Section 6.8 Participation in Meeting

Members of the Board or of any committee may participate in a meeting of the Board or committee by conference telephone or similar communications equipment by means of which all persons participating in the meeting can hear each other, and such participation in a meeting shall constitute presence in person at such a meeting.

Section 6.9 Informal Action

Unless otherwise restricted by statute, the Certificate of Incorporation, the Constitution or the Rules, any action required or permitted to be taken at any meeting of the Board or of any committee may be taken without a meeting if all members of the Board or committee, as the case may be, consent thereto in writing, and the writing or writings are filed with the minutes of proceedings of the Board or of the committee.

Section 6.10 Interested Directors

No Director shall be disqualified from participating in any meeting, action or proceeding of the Board by reason of being or having been a member of a committee which has made prior inquiry, examination or investigation of the subject under consideration. No Director shall participate in the adjudication of any matter in which he is personally interested, although interested Directors may be counted in determining the presence of a quorum at the meeting of the Board or of a committee which authorizes actions with respect to such matter.

Section 6.11 Annual Report to Members

At each Annual Report Meeting of members, the Board shall present a complete report of the financial condition of the Exchange, including a statement of all receipts and expenditures for the preceding year.

Article VII Committees

Section 7.1 Designation of Committees

The committees of the Exchange shall consist of an Executive Committee, an Audit Committee, a Compensation Committee, a Floor Directors Committee, and such other standing and special committees as may be provided in the Constitution or Rules or as may be from time to time appointed by the Vice Chairman of the Board with the approval of the Board. Except as may be otherwise provided in the Constitution or the Rules, the Vice Chairman of the Board with the approval of the Board shall appoint the members of all committees and may designate a Chairman and a Vice-Chairman thereof.

Section 7.2 The Executive Committee

The Executive Committee shall consist of the Chairman of the Board, the Vice Chairman of the Board, and at least 4 other persons appointed as provided in Section 7.1, each of whom must be a Director. Not less than 50% of the members of the Executive Committee (excluding the Chairman) shall be public directors. Members of the Executive Committee shall not be subject to removal except by the Board. The Chairman of the Board shall be the Chairman of the Executive Committee. Each member of this Committee shall be a voting member. The members of the Executive Committee shall serve for a term of one year expiring at the first regular meeting of Directors following the annual election meeting in each year. The Executive Committee shall have and may exercise all the powers and authority of the Board in the management of the business and affairs of the Exchange, except it shall not have the power or authority of the Board in reference to amending the Certificate of Incorporation, adopting an agreement of merger or consolidation, recommending to the members the sale, lease or exchange of all or substantially all of the Exchange's property and assets, recommending to the members the dissolution of the Exchange or a revocation of a dissolution, or amending the Constitution or Rules of the Exchange.

Section 7.3 The Audit Committee

The Audit Committee shall consist of at least three Directors appointed by the Chairman of the Board with the approval of the Board, the exact number to be determined from time to time by the Board. Not less than 50% of the members of the Audit Committee shall be public directors. Members of the

Audit Committee shall not be subject to removal except by the Board. The Chairman of the Audit Committee shall be a public director appointed by the Chairman of the Board. The Audit Committee shall have such duties and may exercise such authority as may be prescribed in the Constitution or Rules or by resolution of the Board.

Section 7.4 The Compensation Committee

The Compensation Committee shall consist of the Vice Chairman of the Board, the lessor director, the Chairman of the Financial Planning Committee, one or more off-floor directors, and such number of public directors that will constitute at least 50% of the members of the Committee. The off-floor director(s) and the public directors shall be appointed to the Compensation Committee by the Chairman of the Board with the approval of the Board. Members of the Compensation Committee shall not be subject to removal except by the Board. The Chairman of the Compensation Committee shall be a public director appointed by the Chairman of the Board. The Compensation Committee shall have such duties and may exercise such authority as may be prescribed in the Constitution or Rules or by resolution of the Board.

Section 7.5 The Floor Directors Committee

The Floor Directors Committee shall consist of those Directors who are primarily engaged in business on the floor of the Exchange (whether serving as floor directors or at-large directors), the lessor director as a non-voting member of the Committee, and such other persons as may be appointed as voting or nonvoting members of the Committee by the Vice Chairman of the Board with the approval of the Board. The Vice Chairman of the Board shall be the Chairman of the Floor Directors Committee. The Floor Directors Committee shall have such duties and may exercise such authority as may be prescribed in the Constitution or Rules or by resolution of the Board.

Section 7.6 Other

All other committees shall have such duties and may exercise such authority as may be prescribed for them in the Constitution or Rules or by resolution of the Board.

Section 7.7 Conduct of Proceedings

Except as otherwise provided in the Certificate of Incorporation, Constitution or Rules, or by resolution of the Board, each committee may determine the manner in which its proceedings shall be conducted. Committees shall keep minutes of their meetings and periodically report their proceedings to the Board of Directors and appropriate committees of the Board to the extent requested by the Board or Board committee.

Article VIII Officers

Section 8.1 Designation; Number; Election

(a) The officers of the Exchange shall be a Chairman of the Board, a Vice Chairman of the Board, 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 may determine. The Chairman of the Board shall be elected by the affirmative vote of at least two-thirds of the Directors then in office exclusive of the

Chairman, who shall not vote. Such affirmative vote may also prescribe his duties not inconsistent with the Constitution or Rules and may prescribe a tenure of office.

The Vice Chairman of the Board shall be a director who owns or directly controls his own membership and is primarily engaged in business on the floor of the Exchange in the capacity of a member. He shall be elected by a plurality of members voting at a meeting of the membership held on the 1st business day preceding the 3rd Friday in December of each year ~~(or if that day is not a business day, on the next succeeding business day)~~ to serve as Vice Chairman of the Board during the following year. The term of office of the Vice Chairman of the Board shall run from January 1st to December 31st of each year. Provided that the Vice Chairman of the Board remains qualified to serve in that office, he and shall serve until the expiration of his term in that office and his successor is duly chosen and qualified or until his earlier death, ~~or his~~ resignation or removal. Once a director has held the office of the Vice Chairman of the Board for six months or more of a one-year term and for the next two succeeding one-year terms, the director shall thereafter be ineligible to again hold the office until a period of not less than six months has elapsed during which the director has not held that office. Candidates for the office of Vice Chairman of the Board must notify the Secretary of the Exchange in writing no later than the close of business on November 23rd (or if that day is not a business day, on the next succeeding business day). In the event there is only one candidate, no election need be held, and the Board of Directors shall declare the office filled by the sole announced candidate.

The remaining officers of the Exchange shall be appointed by the Chairman of the Board, subject to the approval of the Board, ~~at the first regular meeting of the Board of Directors held on or after January 1 following each annual election meeting,~~ each to serve until a successor has been duly chosen and qualified or until the officer's earlier death, ~~or~~ resignation or removal.

(b) No officer, other than the Vice Chairman of the Board, shall be a member or affiliated with a member or a broker or a dealer in securities or commodities. Two or more offices may be held by the same person, except the offices of Chairman of the Board and President, Chairman of the Board and Secretary, or President and Secretary may not be held by the same person. The compensation of all officers of the Exchange chosen by the Board shall be fixed by the Board.

Section 8.2 Chairman of the Board of Directors

The Chairman of the Board shall be the chief executive officer of the Exchange, responsible to the Board for the management of its business affairs, and shall be the official representative of the Exchange in all public matters. The Chairman shall not engage in any other business during his incumbency except with approval of the Board, and by his acceptance of the office of Chairman of the Board he shall be deemed to have agreed to uphold the Constitution and Rules of the Exchange. He shall by virtue of his office be a member and presiding officer of the Board of Directors and an ex-officio member, without a right to vote, of all committees, without prejudice to his being specifically appointed as a voting member of any committee.

Section 8.3 Vice Chairman of the Board

The Vice Chairman of the Board shall preside at meetings of the members. Subject to the approval of the Board, the Vice Chairman of the Board may appoint standing and special committees unless the method of appointment is otherwise provided for in the Constitution or Rules or in the resolution of the Board establishing the committee. The Vice Chairman of the Board shall be responsible for the coordination of the activities of all committees, with the exception of committees of the Board, including the Executive Committee, the Audit Committee and the Compensation Committee. The Vice

Chairman of the Board shall be an ex-officio member, without a right to vote, of all committees, without prejudice to being specifically appointed as a voting member of any committee. In the case of the absence or inability to act of the Chairman of the Board, or in case of a vacancy in the office of the Chairman of the Board, the Vice Chairman of the Board shall exercise the powers and discharge the duties of the Chairman of the Board.

Section 8.4 Acting Chairman and Vacancy in Office of Chairman

(a) In the absence or inability to act of both the Chairman of the Board and the Vice Chairman of the Board, the Board may designate an Acting Chairman of the Board. In the absence of such a designation by the Board, the President, or in his absence or inability to act, the senior available Vice-President, shall assume all the functions and discharge all the duties of the Chairman of the Board.

(b) If a vacancy occurs in the office of Chairman, the Board, by the affirmative vote of at least two-thirds of the Directors then in office, shall fill such vacancy pursuant to Section 8.1(a).

Section 8.5 Vacancy in Office of Vice Chairman of the Board

(a) If the Vice Chairman of the Board shall cease to satisfy the requirements for election to that office, of which failure the Board of Directors shall be the sole judge, he shall thereupon cease to hold his office and such office shall become vacant, provided that if his membership is suspended he may continue to hold office unless he is removed pursuant to paragraph (a) of Section 8.7.

(b) If a vacancy occurs in the office of Vice Chairman of the Board pursuant to paragraph (a) of this Section or if for any other reason the office becomes vacant, the Board, by the affirmative vote of a majority of the Directors then in office, shall fill such vacancy by the election to such office of a Director then in office who satisfies the requirements for election to such office.

Section 8.6 President

The President shall be the chief operating officer of the Exchange. The President shall, by virtue of his office, be an ex-officio member, without a right to vote, of all committees other than committees whose membership is limited to directors of the Exchange, without prejudice to his being specifically appointed as a voting member of any committee other than a committee limited to directors. Except as is otherwise provided in the Certificate of Incorporation, the Constitution or the Rules, the President shall have the power to employ and dismiss employees of the Exchange, and to establish their qualifications, duties, and salaries; he shall [execute] approve, but may delegate the execution of, all authorized contracts on behalf of the Exchange and shall perform such other duties as may be prescribed by the Board from time to time. The President shall not engage in any other business during his incumbency as President, except with approval of the Board. ~~and by~~ By his acceptance of the office of President, he shall be deemed to have agreed and he shall have agreed to uphold the Constitution and Rules. In case of his temporary absence or inability to act he may designate any other officer to assume all the functions and discharge all the duties of the President. Upon his failure to do so, or if the office of President be vacant, the Chairman of the Board or any officer designated by him shall perform the functions and duties of the President. When the President returns or is again able to act, he shall resume his duties.

Section 8.7 Removals

(a) In the event of the refusal, failure, neglect or inability of the Vice Chairman of the Board to discharge his duties, or for any cause affecting the best interests of the Exchange, the sufficiency of which

the Board of Directors shall be the sole judge, the Board shall have the power, by the affirmative vote of at least two-thirds of the Directors then in office exclusive of the Vice Chairman of the Board, to remove the Vice Chairman of the Board and declare such office vacant.

(b) Any officer, other than the Vice Chairman of the Board, chosen by the Board may be removed at any time by the Board, Chairman of the Board or President ~~whenever in its judgment the best interests of the Exchange would be served thereby~~; provided, that the Chairman of the Board or the President may be removed only by the affirmative vote of at least two-thirds of the Directors then in office exclusive of the Chairman of the Board, who shall not vote. Any such removal shall be without prejudice to the contract rights, if any, of the person so removed.

(c) Any vacancies occurring in any office of the Exchange at any time may be filled by the Board for the unexpired term.

Section 8.8 Vice Presidents

Vice Presidents shall perform the duties prescribed by the Board, ~~or the~~ Chairman of the Board or President.

Section 8.9 Secretary

The Secretary shall attend all meetings of members and of the Board; ~~the Secretary and~~ shall keep official records of meetings of members at which action is taken and of meetings of the Board proceedings thereof; ~~he~~ the Secretary shall, in person or by representative, perform like services for the standing and special committees when required; ~~he~~ the Secretary shall give notice of meetings of members and of special meetings of the Board in accordance with the provisions of the Constitution or Rules or as required by statute; ~~he~~ the Secretary shall post all notices which may be required to be posted upon the Exchange bulletin board; ~~he shall collect all monies due the Exchange for assessments, fines, dues, and otherwise, and pay the same to the Treasurer;~~ he the Secretary shall be custodian of the books, records, and corporate seal of the Exchange and attest, upon behalf of the Exchange, all contracts and other documents requiring authentication; ~~he~~ the Secretary shall perform such other duties as may be prescribed by the Board, ~~or the~~ Chairman of the Board or President.

Section 8.10 Treasurer

The Treasurer shall have general charge of the corporate funds and securities and shall keep full accounts of receipts and disbursements in permanent books belonging to the Exchange; he shall collect all monies due the Exchange for assessments, fines, dues, and otherwise; he shall deposit all monies and other valuable effects in the names and to the credit of the Exchange in such depositories as may be designated by the Board; he shall disburse the funds of the Exchange as may be ordered by the Board; he shall render to the Board when required by the Board an account of all his transactions as Treasurer and of the financial condition of the Exchange; he shall perform other duties as may be prescribed by the Board, ~~or the~~ Chairman of the Board or President.

Article IX Indemnification

Section 9.1 Indemnification of Directors, Officers and Members of Committees

The Exchange shall, to the fullest extent permitted by the law, indemnify any person who was or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative, by reason of the fact that he is or was a Director, officer or member of a committee of the Exchange, or is or was serving at the request of the Exchange as a director or officer of another corporation, partnership, joint venture, trust or other enterprise, against all expenses (including attorneys' fees), judgment, fines and amounts paid in settlement actually and reasonably incurred by him in connection with such action, suit or proceeding.

Section 9.2 Contract with the Exchange

The provisions of this Article IX shall be deemed to be a contract between the Exchange and each Director, officer or member of a committee of the Exchange who serves in any such capacity at any time while this Article is in effect, and any repeal or modification of any applicable law or of this Article IX 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.

Section 9.3 Indemnification of Other Persons

Persons not expressly covered by the foregoing provisions of this Article IX, such as those (a) who are or were employees or agents of the Exchange, or are or were serving at the request of the Exchange as employees or agents of another corporation, partnership, joint venture, trust or other enterprise, or (b) who are or were directors, officers, employees or agents of a constituent corporation absorbed in a consolidation or merger in which the Exchange 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 to the extent authorized at any time or from time to time by the Board.

Section 9.4 Other Rights of Indemnification

The indemnification provided or permitted by this Article IX shall not be deemed exclusive of any other rights to which those indemnified 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.

Article X Notices

Section 10.1 Notices

(a) Any notice required to be given by the Constitution, the Rules or otherwise shall be deemed to have been given;

~~(i) in person upon delivery of the notice if delivered in person to the person to whom such notice is addressed; and shall be deemed to have been given~~

~~(ii) by mail upon deposit of the notice to any person entitled thereto at the time it shall have been deposited in the United States mail, enclosed in a postage prepaid envelope; and shall be deemed to have been given by wireless, telegraph or cable when the same shall have been delivered for prepaid transmission into the custody of a company ordinarily engaged in the transmission of such messages~~

(iii) 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;

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

(v) by electronic mail upon electronic transmission of the notice; and shall be deemed to have been given

(vi) by telephone when received;

Any such notice must be addressed to its intended recipient such postage prepaid envelope or such wireless, telegraph or cable message being addressed to such person at the intended recipient's his 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 Exchange, or if no address appears on such books and records, then at such address as shall be otherwise known to the Secretary, or if no such address appears on such books and records, then in care of the registered agent of the Exchange in the State of Delaware. In the event that a notice is not provided in conformity with the provisions of this Section, the notice will be deemed to have been given to its intended recipient upon any receipt of the notice by its intended recipient. Whenever, by any provisions of statute, the Certificate of Incorporation, the Constitution, the Rules or otherwise, any notice is required to be given any specified number of days before any meeting or event, the day on which such notice was given shall be counted but the day of such meeting or other event shall not be counted in determining whether or not notice has been given in proper time in a particular case.

(b) The Exchange may provide to all members and associated persons by electronic mail only those notices provided in the Exchange Bulletin and Regulatory Bulletin and any other types of notices designated by the Board of Directors. If requested in a form and manner prescribed by the Exchange, the Exchange may permit members and associated persons to request that such notices be given by other means.

Section 10.2 Waiver of Notice

Whenever notice is required to be given under the provisions of any statute, the Certificate of Incorporation, the Constitution, the Rules or otherwise, a written waiver thereof, signed by the person entitled to notice, or his proxy in the case of a member, 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 ~~telegraph, cable or wireless~~, bearing the name of the person entitled to notice shall be deemed a written waiver duly signed. Attendance of a person at a meeting, including attendance by proxy in the case of a member, 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, the Certificate of Incorporation, the Constitution or the Rules, neither the business to be transacted at, nor the purpose of, any regular or special meeting of the members, Directors or any committee need be specified in any written waiver of notice.

Article XI General Provisions

Section 11.1 Fiscal Year

The fiscal year of the Exchange shall be as determined from time to time by the Board.

Section 11.2 Checks, Drafts and Other Instruments

All checks, drafts or other orders for the payment of money, notes or other evidences of indebtedness issued in the name of the Exchange shall be signed by such officer or officers, or by such agent or agents of the Exchange and in such manner as the Board may from time to time determine.

~~Section 11.3—Departments~~

~~The Chairman of the Board, with the approval of the Board, is authorized to establish and maintain such departments as may be deemed necessary from time to time, and the Board shall make all needful regulations applicable thereto.~~

~~Section 11.4—Officers and Employees Restricted~~

~~(a) Every salaried officer or employee of the Exchange, except the Vice Chairman of the Board, and every salaried officer or employee of any corporation in which the Exchange owns the majority of the stock, shall report promptly to the Exchange every purchase or sale for his or her own account or the account of others of any security which is the underlying security of any option contract admitted to dealings on the Exchange.~~

~~(b) With the exception of the Vice Chairman of the Board, no salaried officer or employee of the Exchange or salaried officer or employee of any corporation in which the Exchange owns the majority of the corporate stock may purchase or sell for his or her own account or for the account of others any option contract which entitles the purchaser to purchase or sell any security described in paragraph (a) of this Section.~~

~~(c) Paragraphs (a) and (b) above of this Section shall not be construed to preclude any salaried officer or employee of the Exchange or of any corporation in which the Exchange owns a majority of the stock from performing his duties and responsibilities as assigned to him by such organization.~~

Article XII
Amendments

Section 12.1 Constitution

The Constitution may be amended at any regular or special meeting of members by the affirmative vote of a majority of voting ~~the~~ members present in person or represented by proxy at the meeting.

Section 12.2 Rules

The Rules may be amended by the affirmative vote of a majority of the Directors present at a meeting at which such amendment is proposed, provided, however, that promptly upon the adoption of an amendment to the Rules, notice thereof shall be sent to each member, and within 15 days after such notice has been given, 150 or more voting members may request in writing that a special meeting of members be held to vote upon whether the amendment to the Rules shall be approved. The notice of the meeting shall state that the approval of such a proposed amendment will be considered.

Section 12.3 Effectiveness of Amendments

Subject to applicable federal or state regulatory requirements, amendments to the Constitution shall be effective upon their adoption by the members, and amendments to the Rules shall be effective at the expiration of the 15-day notice period, or, if a special meeting of members has been requested to vote upon the amendment or if the amendment otherwise requires membership approval, at the time the amendment is approved by the requisite vote of the members; provided, however, that, except in the case of a Rule that expressly requires amendments to be approved by the membership or by a class of members, the Board may declare an amendment to the Rules effective immediately upon its adoption by the Board whenever the Board determines that, under the circumstances, such accelerated effectiveness is appropriate. Any amendment to the Rules which is declared effective by the Board upon its adoption nevertheless remains subject to being voted upon at a special meeting of members in accordance with Section 12.2, and any such amendment which is so voted upon but not approved shall be rescinded and shall cease to be effective from and after the time of its failure to be approved by the members. The rights and obligations of persons who rely in good faith on an amendment to the Rules declared immediately effective by the Board shall not be affected in the event such amendment is subsequently disapproved by the members.

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CHAPTER VIII - Market-Makers, Trading Crowds and Modified Trading Systems

MTS Committee

RULE 8.82. (a) The MTS Committee shall consist of the Vice-Chairman of the Exchange, the Chairman of the Market Performance Committee, and nine persons ~~members~~ elected by the membership of the Exchange.

(b) The nine elected MTS Committee members shall include: three ~~four~~ members whose primary business is as a Market-Maker; three ~~two~~ members whose primary business is as a Market-Maker or as a DPM Designee; and three ~~one~~ members whose primary business is as a Floor Broker, at least two of whom represent public customer orders in the course of their activities as a Floor Broker and who is not associated with a member organization that conducts a public customer business, and two persons associated with member organizations that conduct a public customer business. ~~No more than two of the nine elected MTS Committee members may be associated with a DPM.~~ One of the nine elected positions on the MTS Committee may instead be filled by a person (i) who directly or indirectly owns and controls a membership with respect to which the person acts as a lessor, (ii) whose primary business is not as a Market-Maker, DPM Designee, or Floor Broker, and (iii) whose primary residence is located within 80 miles of the Exchange's trading floor. No elected member of the MTS Committee may be affiliated (as defined under Rule 1.1(j)) with any other elected member of the MTS Committee. The nine elected MTS Committee members shall have three-year terms, three of which shall expire each year.

(c) The election procedures for the nine elected MTS Committee members shall be the same as the election procedures for elected Directors that are set forth in Article IV and Article V of the Exchange Constitution. Accordingly, the following shall occur as part of these procedures: ~~During October of each year, the~~ The Nominating Committee shall select nominees to fill expiring terms and vacancies on the MTS Committee. Nominations may also be made by petition, signed by not less than 100 voting members and filed with the Secretary of the Exchange no later than 5:00 p.m. (Chicago time) on the Monday preceding the 1st Friday in November, or the first business day thereafter in the event that Monday occurs on a holiday. The election to fill the expiring terms and vacancies on the MTS Committee shall be held as part of the annual election. The term of office of each MTS Committee member elected at an annual election meeting shall commence at the time of the first regular Board of Directors meeting of the calendar year following that annual election meeting and shall continue until the first regular Board meeting of the third succeeding calendar year. Elected MTS Committee members shall hold office for the terms for which they are elected and until their successors are duly elected and qualified or until their earlier death, resignation, or removal.

(d) Candidates for election to the MTS Committee, whether nominated by the Nominating Committee or by petition, shall be eligible for election in any of the categories for which they qualify both at the time of their nomination and at the time of their election. The sole judge of whether a candidate satisfies the applicable qualifications for election to the MTS Committee in a designated category shall be the Nominating Committee in the case of candidates nominated by the Nominating Committee, and shall be the Executive Committee in the case of candidates nominated by petition, and the decision of the respective committee shall be final. In the event a person's status changes following election to the MTS Committee, the sole judge of whether the person continues to satisfy the applicable qualifications for service on the MTS Committee shall be the Board of Directors.

(e) In the event of the refusal, failure, neglect, or inability of any MTS Committee member to discharge that person's duties, or for any cause affecting the best interests of the Exchange, the sufficiency of which the Board of Directors shall be the sole judge, the Board shall have the power, by the affirmative vote of at least two-thirds of the Directors then in office, to remove that MTS Committee member from the Committee.

(f) Any vacancy occurring among the members of the MTS Committee may be filled by a qualified person appointed by the Vice Chairman of the Board with the approval of the Board of Directors. The term of any MTS Committee member so chosen shall be from the date of appointment until the first regular Board meeting of the calendar year following the next annual election meeting and until the person's successor is duly elected and qualified, or until the person's earlier death, resignation, or removal. The remaining portion of the unexpired term of an MTS Committee member, if any, shall be served by a person elected at the next annual election meeting.

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