

Rule 11

Business Conduct **[COMMITTEES OF THE EXCHANGE]**

Adherence to Law **[Establishment of Committees]**

Rule 11.1[(a)]. The acceptance of any account, whether on a disclosed or undisclosed basis, by any OTP Holder or OTP Firm shall at all times comply with fair and equitable principles of trade, the applicable regulations of the Securities and Exchange Commission and of the Federal Reserve Board, the Bylaws and Rules of the Exchange. [In addition to committees specifically provided for in the Constitution, there shall be other standing committees as listed in this Rule. Article II, Section 2 of the PCX Constitution states that the Chief Executive Officer "shall, with the Vice Chairman, subject to the approval of the Board of Governors, appoint all standing and special committees of the Exchange, not including the Executive Committee and the Nominating Committee."]

[(b). The Chief Executive Officer, with the Vice Chairman, subject to the approval of the Board, shall appoint the chairperson, vice chairperson, and members, and shall determine the number constituting the committees to serve for terms expiring at the regular meeting of the Board following the next Annual Election Meeting or until successors are appointed. Consideration shall be given to continuity and to having, where appropriate, a cross section of the members and member organizations represented on each committee.

[(c) The Board may, at any time, remove any member of such committees only for good cause. Any vacancy occurring in one of these committees shall be filled by the Chief Executive Officer, subject to approval of the Board, for the remainder of the term. The Chief Executive Officer, with approval of the Board, may appoint Governors to serve on the Board Committees.]

Prohibited Acts **[Committee Procedures]**

Rule 11.2[(a)]. Any OTP Holder, OTP Firm or any other Associated Person found guilty in accordance with the Rules and procedures of the Exchange of any of the following prohibited acts shall be subject to the imposition of penalties in accordance with the Rules of the Exchange. [Except as otherwise provided in the Constitution, the Rules, or a resolution of the Board, each committee shall determine its own time and manner of conducting its meetings. The vote of a majority of the members of a committee voting at a meeting at which a quorum is present shall be the act of the committee. Committees may act by written consent of a majority of the members of the committee.]

(a) Violations of the Bylaws, Rules and procedures of the Exchange, or any Board order, directive, or policy, required to be filed with the Securities and Exchange Commission.

(b) Conduct or proceeding inconsistent with just and equitable principles of trade, it being declared among other things, that the willful violation of any provision of the federal securities laws, the regulations of the Securities and Exchange Commission and of the Federal Reserve Board, the Bylaws and Rules and procedures of the Exchange shall be considered conduct or proceedings inconsistent with just and equitable principles of trade. [Each committee may appoint such subcommittees as it may deem necessary for the efficient discharge of its duties. Each subcommittee shall consist of at least one member of the committee appointing it and such other persons as such committee may designate. Each subcommittee shall report to the committee appointing it. Any statement made to a subcommittee shall for all purposes be deemed to be a statement made to the committee that appointed such subcommittee.]

(c) Willful misstatement of a material fact, or willful omission to state a material fact required to be stated in any application submitted to the Exchange or in any proceeding, investigation, report or questionnaire or other matter presented to or requested by the Board or any standing or special committee thereof or by the Exchange.

(d) Willful failure to carry out any contract with another OTP Holder or OTP Firm of the Exchange.

(e) Willful action deemed to be detrimental to the welfare of investors, creditors, OTP Holders, OTP Firms or the Exchange.

(f) Subjecting the Exchange or any Director or officer thereof to litigation seeking to restrain the lawful exercise of powers and duties under the Bylaws and Rules and procedures of the Exchange.

Prevention of the Misuse of Material, Nonpublic Information
[Interested Persons]

Rule 11.3. Every OTP Holder or OTP Firm must establish, maintain and enforce written policies and procedures reasonably designed, taking into consideration the nature of such OTP Holder or OTP Firm's business, to prevent the misuse of material, non-public information by such OTP Holder or OTP Firm or persons associated with such OTP Holder or OTP Firm. OTP Holders or OTP Firms for whom the Exchange is the Designated Examining Authority ("DEA") that are required, pursuant to Rule 4.5, to file SEC form X-17A-5, with the Exchange on an annual or more frequent basis must file contemporaneously with the submission for the calendar year end ITSFEA compliance acknowledgments stating that the procedures mandated by this Rule have been established, enforced and maintained. Any OTP Holder or OTP Firm or Associated

Person who becomes aware of a possible misuse of material, non-public information must promptly notify the Exchange's Options Surveillance Department. [No member of a committee shall participate in the adjudication of any matter in which he/she is personally interested, although his/her presence at a meeting at which such matter is considered shall count toward the quorum requirements for the meeting.]

Commentary:

.01 For purposes of Rule 11.3, conduct constituting the misuse of material, non-public information includes, but is not limited to, the following:

- A. Trading in any securities issued by a corporation, or in any related securities or related options or other derivative securities, while in possession of material, non-public information concerning that issuer; or
- B. Trading in a security or related options or other derivative securities, while in possession of material non-public information concerning imminent transactions in the security or related securities; or
- C. Disclosing to another person or entity any material, non-public information involving a corporation whose shares are publicly traded or an imminent transaction in an underlying security or related securities for the purpose of facilitating the possible misuse of such material, non-public information.

.02 The terms "Associated Person" and "person associated with an OTP Holder or OTP Firm" mean anyone who directly is engaged in the OTP Holder's or OTP Firm's trading-related activities, including General partners, officers, directors, managers (or any person occupying a similar status or performing similar functions), any person directly or indirectly controlling, controlled by, or under common control with an OTP Holder or OTP Firm, or any employee of the OTP Holder or OTP Firm.

For the purposes of this Rule, the term "employee" includes every person who is compensated directly or indirectly by the OTP Holder or OTP Firm for the solicitation or handling of business in securities, including individuals trading securities for the account of the OTP Holder or OTP Firm, whether such securities are dealt in on an exchange or are dealt over-the-counter.

.03 Rule 11.3 provides that each OTP Holder or OTP Firm for which the Exchange is the DEA should establish, maintain, and enforce written policies and procedures similar to the following, as applicable:

A. All Associated Persons must be advised in writing of the prohibition against the misuse of material, non-public information; and

B. All Associated Persons of the OTP Holder or OTP Firm must sign attestations affirming their awareness of, and agreement to abide by the aforementioned prohibitions. These signed attestations must be maintained for at least three years, the first two years in an easily accessible place; and

C. Each OTP Holder or OTP Firm must receive and retain copies of trade confirmations and monthly account statements for each account in which an associated person: has a direct or indirect financial interest or makes investment decisions. The activity in such brokerage accounts should be reviewed at least quarterly by the OTP Holder or OTP Firm for the express purpose of detecting the possible misuse of material, non-public information; and

D. All Associated Persons must disclose to the OTP Holder or OTP Firm whether they, or any person in whose account they have a direct or indirect financial interest, or make investment decisions, are an officer, director or 10% shareholder in a company whose shares are publicly traded. Any transaction in the stock (or option thereon) of such company shall be reviewed to determine whether the transaction may have involved a misuse of material non-public information.

Maintenance of the foregoing policies and procedures may not, in all cases, satisfy the requirements and intent of Rule 11.3. The adequacy of each OTP Holder or OTP Firm's policies and procedures will depend upon the nature of each OTP Holder or OTP Firm's business.

Rumors

[General Duties and Power of Committees]

Rule 11.4. No OTP Holder, OTP Firm or any participant therein shall circulate, in any manner, rumors of a character which might affect market conditions on the Exchange; provided, however, that this rule shall not prohibit discussion of unsubstantiated information when its source and unsubstantiated nature are disclosed. [Each committee shall administer the provisions of the Constitution and the Rules of the Exchange pertaining to matters within its jurisdiction. Each committee shall have such other powers and duties as may be delegated to it by the Board of Governors. Each committee is subject to the control, review, and supervision of the Board of Governors. Each Committee shall approve minutes of its meetings and periodically report its proceedings to the Board of Governors.]

Manipulation

[Special Committees]

Rule 11.5. No OTP Holder, OTP Firm or any participant therein shall effect or induce the purchase or sale or otherwise effect transactions in any security for the purpose of creating or inducing a false, misleading or artificial appearance of activity in such security, or for the purpose of unduly or improperly influencing the market price of such security, or for the purpose of making a price which does not reflect the true state of the market in such security. [Special committees deemed necessary by the Chief Executive Officer or by a majority of the Board of Governors shall be appointed as provided in Section 2 of Article II of the PCX Constitution, to act or report to the Board of Governors with respect to special circumstances, matters, or problems.]

Front-running of Block Transactions
[Standing Committees]

Rule 11.6(a). An OTP Holder, OTP Firm or Associated Person obtaining information of an immediate pending transaction or a transaction executed but not yet reported on any national securities exchange or association involving 5,000 shares or more of a security including an equivalent number of option contracts admitted to dealings on the Pacific Exchange, Inc., or securities underlying options so admitted, shall not initiate or transmit an order in the security involved, or options relating to that security, to an exchange for any account in which he or his organization are participants until after the transaction appears on the ticker or is otherwise disclosed, in the case of orders pertaining to equities, or until two minutes after such disclosure, in the case of orders pertaining to options. Exceptions will require prior approval from the Exchange. [Committee members shall be determined by the following process: Members will be asked to choose which committees they wish to serve on. Those requests will be reviewed by the committee chairpersons, vice chairpersons, Floor Governors, and Exchange staff, who will then recommend names of members to Board of Governors. The members of each standing committee shall then be determined by the Board. Committee members may be members of the Exchange or general partners or officers of member organizations, or other persons who are considered to be qualified. All elected Governors shall be considered to be non-voting members of each standing committee, unless specifically appointed to a committee.

(b). Unless specifically exempted by the Board, no more than one person affiliated with the same member organization shall be eligible for service on the same standing committee. If by change of affiliation, merger, or otherwise, two or more persons from the same member organization are serving on the same committee, the number of such persons shall be reduced to one through a resignation or resignations, or if necessary, by action of the standing committee. The vacancy or vacancies thus created shall be filled in accordance with procedures provided in Rule 11.1(c).]

[HEARINGS AND REVIEW OF COMMITTEE ACTION]

Rule 11.7 – Reserved.

[Rule 11.7(a). This Rule provides the procedure for persons aggrieved by Exchange action to apply for an opportunity to be heard and to have the complained of action reviewed. Exchange action includes, but is not limited to: denial of membership; bar from becoming associated with a member; and prohibition or limitation with respect to Exchange services, or the services of any Exchange member, taken pursuant to any contractual arrangement, pursuant to the Constitution, or Rules of the Exchange (other than disciplinary action for which review is provided in Rule 10 and other than an action in Arbitration, from which there is no review). For purposes of this Section, a person must be "aggrieved" in an economic sense.

Submission of Application to Exchange

Rule 11.7(b). A person who is aggrieved by any action of the Exchange within the scope of this Rule and who desires an opportunity to be heard shall file a written application with the Secretary of the Exchange within thirty days after such action has been taken. The application shall state the action complained of and the specific reasons why the applicant takes exception to such action and the relief sought. In addition, if the applicant intends to submit any additional documents, statements, arguments, or other material in support of the application, the same should be so stated and identified.

Extensions of Time

Rule 11.7(c). An application not filed within the time specified in Rule 11.7(b) shall not be considered by the Board Appeals Committee, unless an extension of time is allowed by the Chairman of the Board Appeals Committee upon a showing of good cause. In order to obtain an extension of time within which to file an appeal, the applicant must, within the time specified in Rule 11.7(b), file with the Secretary of the Exchange a request for an extension of time within which to submit the application. The request for extension will be ruled upon by the Chairman of the Board Appeals Committee, whose ruling will be given in writing. Rulings on requests for extension of time are not subject to appeal under Rule 10.

PROCEDURE FOLLOWING APPLICATIONS FOR HEARING OR REVIEW

Request for a Stay of a Committee Action

Rule 11.7(d). (1) An aggrieved person seeking review of a committee decision may request a stay of the decision pending a hearing and review by the Board Appeals Committee. The request for a stay must include a \$500 stay fee along with a concise statement of the basis for the stay that must be separate from, and in addition to, a statement of the basis for the review of the complained of action. Applicants seeking a stay must file the request with the Office of the Corporate Secretary by the earlier of ten (10) business days after the committee renders its decision or forty-eight (48) hours

before the committee implements action. The Exchange will not be required to consider a request for a stay that is made within the 48 hours before a committee implements action.

(2) A stay of a committee action may be granted in only those cases where the aggrieved person has made a showing, based solely on the evidence and information presented in the application for a stay, that: (A) there is a likelihood the applicant will prevail on the merits on review; (B) without a stay, the applicant is likely to suffer irreparable injury; (C) it is likely that there will not be substantial harm to other parties if a stay is granted; and (D) the issuance of a stay is likely to serve the interests of the Exchange or an identified public interest.

(3) The Chair of the Board Appeals Committee will designate a single Board Appeals Committee member to rule on a request for a stay. The designated Board of Appeals Committee member may summarily render a decision on the request for a stay based solely on the documents submitted in support of, and in opposition to, the request for a stay. In evaluating the merits of a stay application, the Committee member will only consider matters relevant to the issuance of the stay, not the underlying complaint. The decision of the Committee member whether to grant a stay may not be appealed under Rule 10.

Panel

Rule 11.7(e). Applications for hearing or review shall be referred by the Secretary to the Board Appeals Committees which shall, if requested, appoint a hearing panel (Panel) of no less than three persons. A record of the proceedings shall be kept.

Documents

Rule 11.7(f). The Panel will set a hearing date and shall be furnished with all materials relevant to the proceeding at least 72 hours prior to the hearing. Each party shall have the right to inspect and copy the other party's materials prior to the hearing or review.

Notice

Rule 11.7(g). Parties to the proceeding shall be informed by the Secretary of the composition of the Panel at least 72 hours prior to the scheduled hearing or review.

HEARING Participants

Rule 11.7(h). The parties to the hearing shall consist of the applicant and a representative of the Exchange who shall present the reasons for the action taken by the Exchange Committee or Department. In addition, any other person may intervene as a

party in the hearing when that person claims an interest in the transaction that is the subject of the action. An intervening party must be so situated that the disposition of the action may, as a practical matter, impair or impede that person's ability to protect that interest unless it is adequately represented by existing parties. Also, the Panel may, in its discretion, permit a person to intervene in the action as a party when that person's claim or defense and the main action have questions of law and fact in common. The applicant is entitled to be represented by counsel at all stages of the proceeding.

Procedure for Intervention

Rule 11.7(i). The person seeking intervention shall serve a motion to intervene on the Secretary which will be transmitted to the Panel. The motion shall state the grounds therefor and shall set forth the claim or defense upon which the intervention is sought. The Panel, in its discretion, shall consider whether the intervention will unduly delay or prejudice the adjudication or the rights of the original parties.

Conduct of Hearing

Rule 11.7(j). The Panel shall determine all questions concerning the admissibility of evidence and shall regulate the conduct of the hearing. Each of the parties shall be permitted to make an opening statement, present witnesses and documentary evidence, cross-examine opposing witnesses and present closing arguments, orally or in writing as determined by the Panel. The Panel shall also have the right to question all parties and witnesses to the proceeding and a record shall be kept. Formal rules of evidence shall not apply.

Decision

Rule 11.7(k). The Board Appeals Committee Panel's decision shall be in writing and contain the reasons supporting the conclusions of the panel.

REVIEW Petition

Rule 11.7(l). The decision of the Panel of the Board Appeals Committee shall be subject to review by the Board either on its own motion within thirty days after issuance, upon written request submitted by the applicant, by the Chief Executive Officer of the Exchange, or by the Chairman of the committee whose action was subject to the prior review, within fifteen days after issuance of the decision. Such petition shall be in writing and shall specify the findings and conclusions to which exceptions are taken together with the reasons for such exceptions. Only written exceptions shall be considered. The Board, or committee of the Board, shall have sole discretion to allow oral argument.

Conduct of Review

Rule 11.7(m). The review shall be conducted by the Board or a Committee of the Board composed of at least three Governors (which review is subject to ratification by the Board). Any Governor who is or was involved in a matter before it was appealed to the Board shall not participate in any review action by the Board concerning that matter. The review shall be based upon the record and shall be made after such further proceedings, if any, as the Board or its designated Committee may order. An applicant shall be given notice of and a chance to address any issues raised by the Board on its own initiative. Based upon such record, the Board may affirm, reverse or modify in whole or in part, the decision below. The decision of the Board shall be in writing and sent to the parties to the proceedings.

MISCELLANEOUS PROVISIONS

Service of Notice

Rule 11.7(n). Any notices or other documents may be served upon the applicant either personally or by leaving the same at his place of business or by deposit in the United States post office, postage prepaid via registered or certified mail addressed to the applicant at his last known business or residence address.

Extension of Time Limits

Rule 11.7(o). Any time limits imposed under this Section for the submission of answers, petition or other materials may be extended by permission of the Secretary of the Exchange. All papers and documents relating to review by the Board Appeals Committee, the Board, or its designated committee, must be submitted to the Secretary of the Exchange.]

Reporting Requirements Applicable to Short Sales in Nasdaq/NM Securities

[BOARD COMMITTEES

Market Performance Committee]

Rule 11.8(a). No OTP Holder or OTP Firm shall initiate, accept or transmit for execution, or execute a sale of a Nasdaq National Market (NM) security for its own account or for the account of another OTP Holder or OTP Firm unless the sale is clearly identified in a form and manner prescribed by the Exchange as a long sale, short sale, or bid test exempt sale. [It shall be the duty of the Market Performance Committee to review periodically rules and policies relating to specialist and market maker performance and advise member committees and staff appropriately. Also, the Committee shall review the regulatory programs of the Exchange and report its findings to the Board on a quarterly basis. The Committee shall be comprised of at least three Governors, excluding ex officio members.]

[Specialist Committee]

[Rule 11.8](b) For purposes of this Rule, a short sale shall have the same meaning as set forth in SEC Rule 3b-3 under the Securities Exchange Act of 1934. [It shall be the duty of the Specialist Committee to address issues relating to the capitalization of specialist posts and to address the general pricing structure of specialist clearance rates and alternate specialist fees. The Committee shall report to the Board when necessary. The Committee shall be comprised of at least five Governors, excluding ex officio members.]

[Audit Committee]

[Rule 11.8](c) A short sale may be designated as a bid test exempt sale if: [The Audit Committee shall be comprised of at least three Governors. The Committee shall have the responsibility to conduct an annual review with the independent auditors, to determine the scope of their examination and the cost thereof. The Committee shall periodically review with the independent auditors and the internal auditor, the Exchange's internal controls and the adequacy of the internal audit program. The Committee shall review the annual reports submitted both internally and externally, and take such action with respect thereto as it may deem appropriate. The Committee shall also recommend annually to the Board, independent public accountants as auditors of the Exchange and its subsidiaries]

(1) The sale qualifies for an exemption from the short sale bid test established in NASD Rule 3350; or

(2)(A) If the sale is by or for the account of a registered options Market Maker, provided that the short sale is an exempt hedge transaction in a designated Nasdaq/NM security underlying a class of stock options or included in an index underlying a class of index options for which the Market Maker holds an appointment under Rule 6.35.

(B) For purposes of this paragraph (c)(2):

(i) An “exempt hedge transaction” shall mean a short sale in a Nasdaq/NM security that was effected to hedge, and in fact serves to hedge, an existing offsetting options position or an offsetting position that was created in one or more transactions contemporaneous with the short sale, provided that, in the case of a stock option, when establishing the short position the Market Maker receives or is eligible to receive good faith margin pursuant to Section 220.12 of Regulation T of the Board of Governors of the Federal Reserve System for that transaction, and provided further that, in the case of an index option, (a) the Nasdaq/NM security sold short is a component security of the index underlying such index option, (b) at least 10% of the value of the index underlying such

index option is represented by one or more Nasdaq/NM securities, and (c) the current aggregate value of the Nasdaq/NM securities sold short does not exceed the aggregate current index value of the index options position being hedged. Notwithstanding the foregoing, a transaction unrelated to normal options market activity, such as index arbitrage or risk arbitrage that in either case is independent of the Market Maker's market making functions, will not be considered an "exempt hedge transaction."

(ii) A "designated Nasdaq/NM security" shall mean a Nasdaq/NM security that the Market Maker has designated as qualifying for the exemption provided in subparagraph (c)(2). Each Market Maker may designate Nasdaq/NM securities underlying options or included in an index underlying options for which he holds an appointment pursuant to Rule 6.35 on the Options Floor of the Exchange as "designated Nasdaq/NM securities." Such designations shall be made in writing and shall be filed with the Exchange's Options Surveillance Department in the same manner in which class appointments under Rule 6.35 are declared.

(iii) A registered Market Maker shall be considered to be a "qualified options Market Maker" in options on those Nasdaq/NM securities he has designated in accordance with subparagraph (c)(2)(B)(ii) above for purposes of the exemption for qualified options Market Makers from the bid test established in NASD Rule 3350, provided that such Market Maker's status as a qualified options Market Maker may be withdrawn, suspended or modified by the Exchange pursuant to Rule 6.35 or Rule 6.100.

(iv) Short sales of a security of a company involved in a publicly announced merger or acquisition by or for the account of a registered options market maker will be deemed to be an exempt hedge transaction qualifying for designation as bid test exempt pursuant to this subparagraph (c)(2) if the short sale was made to hedge existing or prospective positions (based on communicated, specific indications of interest) in options on a security of another company involved in the merger or acquisition, where the options positions are or will be in a class of options for which the market maker holds an appointment under Rule 6.35, and were or will be established in the course of bona fide market-making activity.

[Board Appeals Committee]

[Rule 11.8](d) This Rule may be modified, withdrawn or extended upon termination of the eighteen-month period noted in subparagraph (c)(2)(A) above, provided that so long as the exemption for options Market Makers from the short sale bid test contained in NASD Rule 3350 continues in effect, this Rule will also continue in effect until it is modified or withdrawn. [The Board Appeals Committee shall have

exclusive jurisdiction to: (1) review on appeal, decisions as defined in Rule 10.8(b) and in Rule 10.11(d), regarding committee decisions in disciplinary actions or proceedings; (2) conduct hearings and render decisions in reviewing disciplinary actions or proceedings; (3) affirm, modify, or reverse, as and when appropriate and subject to Rule 10, any sanction imposed by the appropriate committee in disciplinary actions or proceedings; (4) review suspensions imposed in accordance with Article XI of the PCX Constitution and Rule 10; and (5) review Exchange actions as defined in Rule 11.7(a).]

[Rule 11.8](e) It will not be deemed a violation of this Rule when an OTP Holder or OTP Firm designates a sale for an account in which the OTP Holder or OTP Firm has no interest as a long sale where the OTP Holder or OTP Firm does not know or have reason to know that the beneficial owner of the account has, or as a result of such sale would have, a short position in the security, or when an OTP Holder or OTP Firm does not know or have reason to know that the criteria for designating such sale as bid test exempt are not satisfied. [The jurisdiction of the Board Appeals Committee shall not extend to hearings or imposition of penalties relating to the enforcement of rules or regulations of any Floor Trading Committee relating to order, decorum, health, safety, and welfare on the trading floor.]

[Rule 11.8](f) If an OTP Holder or OTP Firm initiates, accepts for execution, transmits for execution or executes a short sale of a Nasdaq/NM security without clearly and properly identifying it as required by paragraph (a) above, or if an OTP Holder or OTP Firm designates a short sale as a bid test exempt sale under paragraph (c) but fails to satisfy all of the conditions to such designation, or even if all such conditions are satisfied, if the sale is made for the purpose of disrupting or manipulating the market in the security that is the subject of the sale or a related option, such sale may constitute a violation of this Rule, as well as Exchange Rules 11.2, 11.5 and 6.37. [The Board Appeals Committee may, on its own motion, order review of a decision as defined in Rule 10, in disciplinary actions or proceedings. If, when reviewing a case on its own motion, the Committee decides to modify or reverse the findings of the appropriate committee, such modification or reversal shall not take effect unless approved by the Board of Governors. Should the Board vote to disapprove this modification or reversal, the Board shall make its own findings and issue a final decision of the Exchange.]

[Technology Services Committee

Rule 11.8(g). It shall be the duty of the Technology Services Committee to address issues relating to the Technology Services Department. The Committee shall work with the Department to that effect. The Committee shall report to the Board when necessary. The Committee shall be comprised of at least three Governors, excluding ex officio members.]

Commentary:

.01 This Rule is adopted in conjunction with the adoption of an addition to the NASD Rule 3350 which imposes a bid test on short sales of stocks traded on the Nasdaq National Market, subject to certain exemptions including, during a pilot period, an exemption for certain transactions of options market makers. This Rule will continue in effect only so long as the options Market Maker exemption from the NASD bid test remains in effect.

.02 Once the underlying index has satisfied the 10% test of clause (b) of the second proviso in subparagraph (c)(2)(B)(i), the continued qualification of the index shall be reviewed as of the end of each calendar quarter, and the index shall cease to qualify if the value of the index represented by one or more Nasdaq/NM securities is less than 8% at the end of any subsequent calendar quarter.

.03 For purposes of subparagraph (c)(2)(B)(i), transactions will be considered to be “contemporaneous” if they occur simultaneously or within the same brief period of time.

Discretionary Transactions

Rule 11.9. No OTP Holder or OTP Firm while on the Floor shall execute or cause to be executed through the facilities of the Exchange any transaction for the purchase or sale of any security admitted to dealings through the facilities of the Exchange with respect to which transaction such OTP Holder or OTP Firm is vested with discretion as to (1) the choice of security to be bought or sold; (2) the total amount of any security to be bought or sold or (3) whether any such transaction shall be one of purchase or sale.

The provisions of the preceding paragraph shall not apply to any discretionary transaction executed by such OTP Holder or OTP Firm for any bona fide cash investment account or for the account of any person, who due to illness, absence or similar circumstances, is actually unable to effect transactions for his own account, provided that such OTP Holder or OTP Firm shall keep available for inspection a detailed record of any such transaction and the grounds for exercising such discretion and shall file with the Exchange quarterly a report showing the name of each account for which any such transaction was executed, the amount of such discretionary purchases or sales and the grounds for exercising such discretion with respect to each account; or to any transaction permitted under Rule 11.12(b) for any account in which the OTP Holder or OTP Firm executing such transaction is directly or indirectly interested. No OTP Holder, OTP Firm nor any participant therein shall execute or cause to be executed through the facilities of the Exchange purchases or sales of any security admitted to dealings through the facilities of the Exchange for any account with respect to which such OTP Holder, OTP Firm or participant therein is vested with any discretionary power, which purchases or sales are excessive in size or frequency in view of the financial resources in such account.

Excessive Trading **[OPTIONS COMMITTEES]**

Options Marketing Committee]

Rule 11.10(a)]. No OTP Holder, OTP Firm, nor any participant therein shall effect through the facilities of the Exchange purchases or sales for any account in which such OTP Holder, OTP Firm or participant therein is directly or indirectly interested, which purchases or sales are excessive in view of the financial resources of such OTP Holder, OTP Firm or participant therein or in view of the market for such security. [It shall be the duty of the Options Marketing Committee to act in an advisory capacity to the officers of the Exchange in marketing the services of the Exchange, and suggesting enhancements for trading of derivative products.]

[Options Allocation Committee

Rule 11.10(b)(1). The Options Allocation Committee shall consist of Market Makers, Lead Market Makers, Floor Brokers and/or persons associated with floor members, office members or office allied members. It shall be the duty of the Options Allocation Committee to allocate and reallocate options issues. The Committee shall also be responsible for evaluating and monitoring the performances of Market Makers, trading crowds and Lead Market Makers.

(2). It shall also be the duty of the Options Allocation Committee to recommend to the Board of Governors the appointment, assignment, retention, reassignment, transfer, and taking leave of the privileges to deal in and trade options to, by, and among members on the Options Trading Floor. It shall be responsible for appointing Market Makers and appointing and approving Lead Market Makers ("LMMs") as provided for in Rules 6.35 and 6.82. The Committee may relieve LMMs of their appointments, may designate interim LMMs, and may make determinations pertaining to LMM-related issues not within the jurisdiction of any other standing committee.

Commentary:

.01 Attempts shall be made in order for the Options Allocation Committee to have a composition that includes: Floor Brokers from either the Options Floor Trading Committee or the Options Listing Committee; Market Makers or Lead Market Makers from either the Options Floor Trading Committee or the Options Listing Committee; at-large Floor Brokers; and at-large Market Makers or Lead Market Makers.

Options Listing Committee

Rule 11.10(c). It shall be the duty of this Committee to recommend to the Board of Governors options for listing and delisting on the Exchange.

Commentary:

.01 Attempts shall be made in order for the Options Listing Committee to have a composition that includes: (i) four Floor Brokers; (ii) five Market Makers or Lead Market Makers; and (iii) one member of the Exchange or a general partner or officer of a member organization, or any other person who is considered to be qualified.]

Disclosure of Financial Arrangements of OTP Holders
[EXCHANGE COMMITTEES
Pension Committee]

Rule 11.11(a). A Market Maker, Floor Broker, or OTP Firm who enters into a financial arrangement with any other person or entity shall disclose to the Exchange the identity of such person or entity and the terms of the arrangement. For the purposes of this rule, a financial arrangement is defined as [It shall be the duty of the Pension Committee to oversee the pension plan and select the investment advisor for such plan. This Committee shall be comprised of Exchange employees and members.]:

- (1) the direct financing of an OTP Holder's or OTP Firm's dealings upon the Exchange; or
- (2) any direct equity investment or profit sharing arrangement; or
- (3) any consideration over the amount of \$5,000.00, including, but not limited to, gifts, loans, annual salaries or bonuses.

[Rule 11.11](b) OTP Holders and OTP Firms with financial arrangements must submit to the Exchange notification of the initiation, modification or termination of such financial arrangements in a form, time and manner approved by the Exchange within ten business days of the effective date of such arrangements or within such shorter period of time as the Exchange may require. Failure to disclose the terms of such financial arrangements to the Exchange may result in disciplinary action. [It shall be the duty of the Membership Committee to review membership rules, requirements, fees, and policies, and to recommend changes to the Board where appropriate.

(c). The Committee shall be comprised of at least two Governors, one of whom shall be a floor Governor.

(d). The Membership Committee shall have jurisdiction over admission to membership in the Exchange. It shall exercise its powers subject to admissions policies established by the Board of Governors. All applications for membership by individuals and firms, all changes in composition or restructuring of a member firm, all applications for reinstatement of members suspended for insolvency, and any application for readmission of a person who has been expelled from the Exchange shall be referred to the Committee for review and action.]

Joint Accounts
[New Products Committee]

Rule 11.12(a) No OTP Holder or OTP Firm while on the Floor, shall without the prior approval of the Exchange, initiate the purchase or sale through the facilities of the Exchange of any security admitted to dealings through the facilities of the Exchange for any account in which the OTP Holder, OTP Firm or any participant therein is directly or indirectly interested with any person other than such firm or participant therein. [It shall be the duty of the New Products Committee to formulate ideas for new trading products and to make an initial determination of their economic and operational feasibility.] The provisions of this rule shall not apply to any purchase or sale (1) by any OTP Holder or OTP Firm for any joint account maintained solely for effecting bona fide domestic or foreign arbitrage transactions or (2) by a specialist for any joint account in which he is expressly permitted to have an interest or participation by this Rule.

(b) *Reporting.* No OTP Holder or OTP Firm, nor any participant therein shall directly or indirectly hold any interest or participation in any substantial joint account for buying or selling any security through the facilities of the Exchange, unless such joint account is reported to and not disapproved by the Exchange. Such reports, in form prescribed by the Exchange, shall be filed with the Exchange before any transaction is completed [on] through the facilities of the Exchange for such joint account. [The Committee shall be comprised of at least one Board member, and shall consist of option's floor members.]

The Exchange shall require weekly reports, in form prescribed by the Exchange, to be filed with it with respect to every substantial joint account for buying or selling any specific security on the Exchange and with respect to every joint account which actively trades in any security on the Exchange in which any OTP Holder, OTP Firm or participant therein holds any interest or participation or of which such OTP Holder, OTP Firm or participant therein has knowledge by reason of transactions executed by or through such OTP Holder, OTP Firm or participant therein; provided, however, that this paragraph shall not apply to joint accounts specifically permitted by this Rule.

In the event the requirements hereof should be applicable to a security also dealt in on another national securities exchange having requirements substantially equivalent hereto and an OTP Holder or OTP Firm is a member or member firm of such other exchange and complies with such requirements of such other exchange, then such OTP Holder or OTP Firm need not comply with the reporting provisions hereof.

Disciplinary Action By Other Organizations

Rule 11.13. Every OTP Firm shall promptly notify the Exchange in writing of any disciplinary action, including the basis therefore, taken by any national securities exchange or association, clearing corporation, commodity futures market or government regulatory body against the OTP Firm or its associated persons, and shall similarly notify the Exchange of any disciplinary action taken by the OTP Firm itself against any of its associated persons involving suspension, termination, the withholding of commissions or

imposition of fines in excess of \$2,500.00, or any other significant limitation on activities.

Officers and Employees Restricted

Rule 11.14(a). Every salaried officer or employee of the Exchange 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 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) 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 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 Rule 11.14.

Communications to and on the Floor

Rule 11.15. No OTP Holder or OTP Firm may establish or maintain any telephonic or electronic communication between the Floor and any other location, or between locations on the Floor, without prior approval of the Exchange.

Books and Records

Rule 11.16(a) Each OTP Holder and OTP Firm must make, keep current and preserve such books and records as the Exchange may prescribe and as may be prescribed by the Exchange Act and the rules and regulations thereunder (including any interpretation relating thereto) as though such OTP Holder or OTP Firm were a broker or dealer registered with the SEC pursuant to Section 15 of the Exchange Act. No OTP Holder or OTP Firm may refuse to make available to the Exchange such books, records or other information as may be called for under the Rules or as may be requested in connection with an Exchange investigation.

Commentary:

.01 The following Exchange Rules contain specific requirements with regard to the maintenance, retention and furnishing of books, records and other information: Rules 2.16, 4.1, 4.3, 4.5, 4.6, 4.7, 4.9, 4.10, 4.11, 4.15, 4.18, 11.9, 11.12, 11.16, 11.17, 11.18, 6.14, 6.15, 6.16, 6.17, 6.18, 6.19, 6.39, 6.41, 6.46, 6.68, 6.69, 9.2, 9.17 and 9.18. The foregoing list is not intended to be exhaustive and OTP Holders and OTP Firms must comply with applicable record keeping and reporting requirements regardless of whether they are listed here.

Rule 11.16(b) Daily Position Statements. Each OTP Holder and OTP Firm must receive daily position statements with respect to securities held by the Options Clearing Corporation or any member thereof, the DTCC or any similar clearing organization and must reconcile securities and money balances at least once per month by comparing those position statements against the OTP Holder or OTP Firm's books and records. Each OTP Holder or OTP Firm must promptly report any differences to the contra organization and make every effort to promptly resolve the differences. An OTP Holder or OTP Firm who processes transactions through the OTP Holder or OTP Firm's clearing firm's clearance account may utilize those clearance account records to satisfy this record keeping requirement provided that: (i) the OTP Firm clearing firm complies with the provisions of SEC Rules 17a-3(b)(2) and 17a-4(i); (ii) the OTP Holder or OTP Firm maintains those clearance account records pertaining to the daily activity and total position in each series of options; and (iii) the OTP Holder or OTP Firm reconciles any discrepancies between the clearance account records and any financial reports that the OTP Holder or OTP Firm is required to maintain pursuant to Rule 11.16(a). Each OTP Holder and OTP Firm must maintain reports that evidence reconciliation for at least six years, the first two years in an easily accessible place.

Error Accounts

Rule 11.17(a). Each OTP Firm whose principal business is as a Floor Broker on the Exchange and who is not self-clearing must establish and maintain an account with a clearing member of the Exchange, for the sole purpose of carrying positions resulting from bona fide errors made in the course of its floor brokerage business. With respect to options Floor Brokers only, such an account for option transactions must be maintained with an entity that is also a member of the Options Clearing Corporation.

(b) Each such OTP Holder or OTP Firm which conducts business as a Floor Broker must make available to the Exchange, upon request, accurate and complete records of all trades cleared in such OTP Holder or OTP Firm's error account. These records must include the audit trail data elements prescribed below:

- (1) name or identifying symbol of the security;
- (2) number of shares or quantity of security;
- (3) transaction price;
- (4) time of trade execution;
- (5) executing broker badge number, or alpha symbol as may be used from time to time, in regard to its side of the contract;
- (6) executing broker badge number, or alpha symbol as may be used from time to time, of the contra side to the contract;

(7) clearing firm number, or alpha symbol as may be used from time to time, in regard to its side of the contract;

(8) clearing firm number, or alpha symbol as may be used from time to time, in regard to the contra side of the contract;

(9) designation of whether the account for which the order was executed was that of a OTP Holder or OTP Firm;

(10) the nature and amount of the error;

(11) the OTP Holder or OTP Firm that cleared the error trade on the OTP Holder or OTP Firm's behalf;

(12) an explanation of the means by which the OTP Holder or OTP Firm resolved the error;

(13) the aggregate amount of liability that the OTP Holder or OTP Firm incurred and: (i) had outstanding as of the time each such error trade entry was recorded or (ii) had cleared by other OTP Holder or OTP Firm.

Supervision

Rule 11.18(a). No OTP Holder or OTP Firm may engage in conduct in violation of the federal securities laws, the Bylaws or the Rules of the Exchange. Every OTP Holder or OTP Firm must supervise persons associated with the OTP Holder or OTP Firm as to assure compliance therewith.

(b) Supervisory System

Each OTP Holder or OTP Firm for whom the Exchange is the Designated Examining Authority ("DEA") must establish and maintain a system to supervise the activities of its associated persons and the operations of its business. Such system must be reasonably designed to ensure compliance with applicable federal securities laws and regulations and PCX Rules. Final responsibility for proper supervision will rest with the OTP Holder or OTP Firm. The OTP Holder's or OTP Firm's supervisory system must provide, at a minimum, for the following:

(1) The establishment and maintenance of written procedures as required by paragraph (c) of this Rule.

(2) The designation of a person with authority to reasonably discharge his/her duties and obligation in connection with supervision and control of the activities of the associated persons of the OTP Holder or OTP Firm.

(3) The member or member organization must undertake reasonable efforts to determine that all supervisory personnel are qualified by virtue of experience or training to carry out their assigned responsibilities.

(4) Each OTP Holder or OTP Firm must designate and specifically identify to the Exchange one or more persons who will be responsible for such supervision.

(c)Written Procedures

Each OTP Holder or OTP Firm must establish, maintain, and enforce written procedures to supervise the business in which it engages and to supervise the activities of its associated persons that are reasonably designed to ensure compliance with applicable federal securities laws and regulations, and with the PCX Rules.

Anti-Money Laundering Compliance Program

Rule 11.19 Each OTP Holder and OTP Firm for which the Exchange is the Designated Examining Authority, must develop and implement a written anti-money laundering program reasonably designed to achieve and monitor the OTP Holder or OTP Firm's compliance with the requirements of the Bank Secrecy Act (31 U.S.C. 5311, et seq.), and the implementing regulations promulgated thereunder by the Department of the Treasury. Each OTP Holder or OTP Firm's anti-money laundering program must be approved in writing by a representative of its senior management staff. The anti-money laundering programs required by this Rule must include, at a minimum, a requirement to:

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

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

(c) provide for independent testing for compliance to be conducted by OTP Holder or OTP Firm personnel or a qualified outside party;

(d) designate an individual or individuals responsible for implementing and monitoring the day-to-day operations and controls of the program; and

(e) provide ongoing training for appropriate personnel.

Miscellaneous Provisions

Rule 11.20 (a). No OTP Holder, OTP Firm or any participant therein shall:

(1) Directly or indirectly participate in or have any interest in the profits of a manipulative operation, or knowingly manage or finance a manipulative operation. For the purpose of this paragraph, (A) any pool, syndicate or joint account, whether in corporate form or otherwise, organized or used intentionally for the purpose of unfairly influencing the market price of any security, by means of options or otherwise, and for the purpose of making a profit thereby, shall be deemed to be a manipulative operation; (B) the soliciting of subscriptions to any such pool, syndicate or joint account, or the accepting of discretionary orders from any such pool, syndicate or joint account, shall be deemed to be managing a manipulative operation; and (C) the carrying on margin of either a “long” or a “short” position in securities for, or the advancing of credit through loans of money or securities to, any such pool, syndicate or joint account, shall be deemed to be financing a manipulative operation.

(2) Offer publicly on the Floor

- (A) to buy or sell securities “at the close”;
- (B) to buy or sell dividends; or
- (C) to bet upon the course of the market.

(3) Participate in a prearranged trade. An offer to sell coupled with an offer to buy back at the same or at an advanced price, or the reverse, is a prearranged trade and is prohibited. This provision applies both to transactions in the unit of trading and in lesser or greater amounts.