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ID Number: 65248



**STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS**

Office of the Secretary of State  
Corporations Division  
148 W. River Street  
Providence, Rhode Island 02904-2615

**NON-PROFIT CORPORATION**

**APPLICATION FOR  
AMENDED CERTIFICATE OF AUTHORITY**

Pursuant to the provisions of Section 7-6-82 of the General Laws of Rhode Island, 1956, as amended, the undersigned foreign non-profit corporation hereby applies for an Amended Certificate of Authority to conduct affairs in the state of Rhode Island, and for that purpose submits the following statement:

1. The name of the corporation is National Association of Securities Dealers, Inc.

2. A Certificate of Authority was issued to the corporation by the Secretary of State of the State of Rhode Island on July 3, 1991, authorizing it to conduct affairs in Rhode Island.

3. The corporate name of the corporation has been changed to:  
Financial Industry Regulatory Authority, Inc.  
*(If the name has not been changed, insert "no change")*

4. It desires to pursue in the conduct of its affairs in Rhode Island other or additional specific purposes than those set forth in its prior Application for a Certificate of Authority, as follows:

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*(If no other or additional purposes are proposed, insert "None")*

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**FILED**

AUG 09 2007 12:10 P.M.

By [Signature]  
29-33936

Under penalty of perjury, we declare and affirm that we have examined this Application for Amended Certificate of Authority, including any accompanying attachments, and that all statements contained herein are true and correct.

Date: 7/23/07

**National Association of Securities Dealers, Inc.**

Print Exact Name of Corporation Making Application

By *John J. Flood*

John J. Flood

President or  Vice President (check one)

By *Arthur L. Lawrence* <sup>AND</sup>

Secretary or  Assistant Secretary (check one)

# Delaware

PAGE 1

*The First State*

I, HARRIET SMITH WINDSOR, SECRETARY OF STATE OF THE STATE OF DELAWARE, DO HEREBY CERTIFY THE ATTACHED IS A TRUE AND CORRECT COPY OF THE RESTATED CERTIFICATE OF "NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.", CHANGING ITS NAME FROM "NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC." TO "FINANCIAL INDUSTRY REGULATORY AUTHORITY, INC.", FILED IN THIS OFFICE ON THE THIRTIETH DAY OF JULY, A.D. 2007, AT 11:01 O'CLOCK A.M.

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070866658



*Harriet Smith Windsor*

Harriet Smith Windsor, Secretary of State

AUTHENTICATION: 5883729

DATE: 07-30-07

State of Delaware  
Secretary of State  
Division of Corporations  
Delivered 11:01 AM 07/30/2007  
FILED 11:01 AM 07/30/2007  
SRV 070865282 - 0352322 FILE

**RESTATED CERTIFICATE OF INCORPORATION  
OF  
NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.**

The present name of the corporation is National Association of Securities Dealers, Inc. (the "Corporation"). The Corporation was originally incorporated as a nonstock corporation under the name of Investment Bankers Conference, Inc., and its original Certificate of Incorporation was filed with the Secretary of State of the State of Delaware on September 3, 1936. This Restated Certificate of Incorporation of the Corporation, which both restates and further amends the provisions of the Corporation's Certificate of Incorporation as heretofore amended, was duly adopted in accordance with the provisions of Sections 242 and 245 of the General Corporation Law of the State of Delaware.

**Name**

**First:** The name of the Corporation is Financial Industry Regulatory Authority, Inc.

**Delaware Office and Agent**

**Second:** The registered office of the Corporation in the State of Delaware is located at 1308 Delaware Avenue, in the City of Wilmington, County of New Castle. The name and address of its registered agent is Corporate Creations Network Inc., 1308 Delaware Avenue, Wilmington, Delaware 19806.

**Objects or Purposes**

**Third:** The nature of the business or purposes to be conducted or promoted is to engage in any lawful act or activity for which corporations may be organized under the General Corporation Law of the State of Delaware, and, without limiting the generality of the foregoing, the business or purposes to be conducted or promoted shall include the following:

(1) To promote through cooperative effort the investment banking and securities business, to standardize its principles and practices, to promote therein high standards of commercial honor, and to encourage and promote among members observance of federal and state securities laws;

(2) To provide a medium through which its membership may be enabled to confer, consult, and cooperate with governmental and other agencies in the solution of problems affecting investors, the public, and the investment banking and securities business;

(3) To adopt, administer, and enforce rules of fair practice and rules to prevent fraudulent and manipulative acts and practices, and in general to promote just and equitable principles of trade for the protection of investors;

(4) To promote self-discipline among members, and to investigate and adjust grievances between the public and members and between members;

(5) To establish, and to register with the Securities and Exchange Commission as, a national securities association pursuant to Section 15A of the Securities Exchange Act of 1934, as amended, and thereby to provide a medium for effectuating the purposes of said Section; and

(6) To transact business and to purchase, hold, own, lease, mortgage, sell, and convey any and all property, real and personal, necessary, convenient, or useful for the purposes of the Corporation.

The objects and purposes specified in the foregoing clauses shall, except where otherwise expressed, not be limited or restricted by reference to, or inference from, the terms of any other clause in this Restated Certificate of Incorporation, but the objects and purposes specified in each of the foregoing clauses of this Article shall be regarded as independent objects and purposes.

#### **Form of Organization**

**Fourth:** The Corporation shall be a membership corporation and shall have no capital stock. The Corporation is not organized and shall not be conducted for profit, and no part of its net revenues or earnings shall inure to the benefit of any individual, subscriber, contributor, or member.

Except as may be otherwise provided by the General Corporation Law of the State of Delaware or this Restated Certificate of Incorporation, the members of the Corporation shall have no voting rights. Notwithstanding the foregoing, Small Firm Members shall be entitled to vote for the election of Small Firm Governors, Mid-Size Firm Members shall be entitled to vote for the election of Mid-Size Firm Governors, Large Firm Members shall be entitled to vote for the election of Large Firm Governors and the members shall be entitled to vote on any amendment to the By-Laws of the Corporation, in each case, in accordance with the procedures for such a vote as provided in the By-Laws.

Except as may be otherwise provided by the General Corporation Law of the State of Delaware, other applicable law or this Restated Certificate of Incorporation, the conditions, method of admission, qualifications and classifications of membership, the limitations, rights, powers and duties of members, the dues, assessments, and contributions of members, the method of expulsion from and termination of membership, and all other matters pertaining to the membership and the conduct, management, and control of the business, property, and affairs of the Corporation shall be provided from time to time in the By-Laws of the Corporation and the Rules of the Corporation.

#### **Indemnification; Liability**

**Fifth:** (a) The Corporation shall indemnify, and hold harmless, to the fullest extent permitted by the General Corporation Law of the State of Delaware as it presently exists or may thereafter be amended, any person (and the heirs, executors, and administrators of such person) who, by reason of the fact that he or she is or was a Governor, officer, employee, or National Adjudicatory Council or committee member of the Corporation, or is or was a Governor, officer, or employee of the Corporation who is or was serving at the request of the Corporation as a director, officer, employee, or agent of another corporation, partnership, joint venture, trust,

enterprise, or non-profit entity, including service with respect to employee benefit plans, is or was a party, or is threatened to be made a party to:

(i) any threatened, pending, or completed action, suit, or proceeding, whether civil, criminal, administrative, or investigative (other than an action by or in the right of the Corporation) against expenses (including attorneys' fees and disbursements), judgments, fines, and amounts paid in settlement actually and reasonably incurred by such person in connection with any such action, suit, or proceeding; or

(ii) any threatened, pending, or completed action or suit by or in the right of the Corporation to procure a judgment in its favor against expenses (including attorneys' fees and disbursements) actually and reasonably incurred by such person in connection with the defense or settlement of such action or suit.

(b) The Corporation shall advance expenses (including attorneys' fees and disbursements) to persons described in Article Fifth (a); provided, however, that the payment of expenses incurred by such person in advance of the final disposition of the matter shall be conditioned upon receipt of a written undertaking by that person to repay all amounts advanced if it should be ultimately determined that the person is not entitled to be indemnified under this Article Fifth or otherwise.

(c) The Corporation may, in its discretion, indemnify and hold harmless, to the fullest extent permitted by the General Corporation Law of the State of Delaware as it presently exists or may thereafter be amended, any person (and the heirs, executors, and administrators of such persons) who, by reason of the fact that he or she is or was an agent of the Corporation or is or was an agent of the Corporation who is or was serving at the request of the Corporation as a director, officer, employee, or agent of another corporation, partnership, trust, enterprise, or non-profit entity, including service with respect to employee benefit plans, was or is a party, or is threatened to be made a party to any action or proceeding described in Article Fifth (a).

(d) The Corporation may, in its discretion, pay the expenses (including attorneys' fees and disbursements) reasonably and actually incurred by an agent in defending any action, suit, or proceeding in advance of its final disposition; provided, however, that the payment of expenses incurred by such person in advance of the final disposition of the matter shall be conditioned upon receipt of a written undertaking by that person to repay all amounts advanced if it should be ultimately determined that the person is not entitled to be indemnified under this Article Fifth or otherwise.

(e) Notwithstanding the foregoing or any other provision of this Restated Certificate of Incorporation, no advance shall be made by the Corporation to an agent or non-officer employee if a determination is reasonably and promptly made by the Board by a majority vote of those Governors who have not been named parties to the action, even though less than a quorum, or, if there are no such Governors or if such Governors so direct, by independent legal counsel, that, based upon the facts known to the Board or such counsel at the time such determination is made: (1) the person seeking advancement of expenses (i) acted in bad faith, or (ii) did not act in a manner that he or she reasonably believed to be in or not opposed to the best interests of the Corporation; (2) with respect to any criminal proceeding, such person believed or had reasonable

cause to believe that his or her conduct was unlawful; or (3) such person deliberately breached his or her duty to the Corporation.

(f) The indemnification provided by this Article Fifth in a specific case shall not be deemed exclusive of any other rights to which a person seeking indemnification may be entitled, both as to action in his or her official capacity and as to action in another capacity while holding such office, and shall continue as to a person who has ceased to be a Governor, officer, employee, or agent and shall inure to the benefit of such person's heirs, executors, and administrators.

(g) Notwithstanding the foregoing, but subject to Article Fifth (j), the Corporation shall be required to indemnify any person identified in Article Fifth (a) in connection with a proceeding (or part thereof) initiated by such person only if the initiation of such proceeding (or part thereof) by such person was authorized by the Board.

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

(i) Any repeal or modification of the foregoing provisions of this Article Fifth shall not adversely affect any right or protection hereunder of any person respecting any act or omission occurring prior to the time of such repeal or modification.

(j) If a claim for indemnification or advancement of expenses under this Article Fifth is not paid in full within 60 days after a written claim therefor by an indemnified person has been received by the Corporation, the indemnified person may file suit to recover the unpaid amount of such claim and, if successful in whole or in part, shall be entitled to be paid the expense of prosecuting such claim. In any such action, the Corporation shall have the burden of proving that the indemnified person is not entitled to the requested indemnification or advancement of expenses under the General Corporation Law of the State of Delaware.

(k) The Corporation shall have power to purchase and maintain insurance on behalf of any person who is or was a Governor, officer, employee, agent, or National Adjudicatory Council or committee member of the Corporation, or is or was serving at the request of the Corporation as a director, officer, employee, or agent of another corporation, partnership, joint venture, trust, enterprise, or non-profit entity against any liability asserted against such person and incurred by such person in any such capacity, or arising out of such person's status as such, whether or not the Corporation would have the power to indemnify such person against such liability hereunder.

(l) A Governor shall not be liable to the Corporation or its members for monetary damages for breach of fiduciary duty as a Governor, except to the extent such exemption from liability or limitation thereof is not permitted under the General Corporation Law of the State of Delaware as it presently exists or may hereafter be amended.

#### Perpetual Existence

**Sixth:** The Corporation shall have perpetual existence.

#### **Members' Liability**

**Seventh:** The private property of the members shall not be subject to the payment of corporate debts to any extent whatever.

#### **Governors**

**Eighth: (a)** To the fullest extent permitted by Sections 141(a), 141(j), and 215 of the General Corporation Law of the State of Delaware and other applicable law, the business and affairs of the Corporation shall be managed and the election of Governors shall be conducted in the manner provided in this Restated Certificate of Incorporation and the By-Laws of the Corporation. To the extent there is any inconsistency between the provisions of this Restated Certificate of Incorporation and the By-Laws relating to such matters and the General Corporation Law, the provisions of this Restated Certificate of Incorporation and the By-Laws shall govern to the fullest extent permitted by the General Corporation Law and other applicable law. To the fullest extent permitted by the General Corporation Law of the State of Delaware and other applicable law, the Board of Governors may delegate such powers, authority, and functions as it shall determine from time to time, in a manner not inconsistent with the "Plan of Allocation and Delegation of Functions by NASD to Subsidiaries," approved by the Securities and Exchange Commission, as amended from time to time.

**(b)** The Corporation shall be managed under the direction of a Board of Governors having such powers and duties as shall be provided from time to time in this Restated Certificate of Incorporation or the By-Laws of the Corporation. The Board of Governors shall be the governing body of the Corporation. Each member of the Board of Governors who is to be elected by members of the Corporation shall be elected by a plurality of the votes of the members of the Corporation present in person or represented by proxy at the annual meeting of the members of the Corporation and entitled to vote for such category of Governors. Elections shall be by written ballot. Any Governor so elected by members of the Corporation must be nominated by the Nominating Committee or certified by the Secretary of the Corporation (as provided in the By-Laws of the Corporation) and must satisfy the other qualifications for Governors set forth in this Restated Certificate of Incorporation or the By-Laws or established by resolution of the Board of Governors from time to time, which qualifications shall be consistent with the "Plan of Allocation and Delegation of Functions by NASD to Subsidiaries". The By-Laws may also provide for such assistants to the Board of Governors, and such officers, agents, and employees, as may be deemed necessary to administer affairs of the Corporation.

From and after the Transitional Period, the Board of Governors shall consist of (i) the Chief Executive Officer of the Corporation, (ii) a number of Public Governors determined by the Board of Governors, (iii) a Floor Member Governor, an Independent Dealer/Insurance Affiliate Governor and an Investment Company Affiliate Governor and (iv) three Small Firm Governors, one Mid-Size Firm Governor and three Large Firm Governors. The number of Public Governors shall exceed the number of Industry Governors.

The Chief Executive Officer shall serve as a Governor until a successor is elected, or until death, resignation, or removal.

Public Governors and the Floor Member Governor, the Independent Dealer/Insurance Affiliate Governor and the Investment Company Affiliate Governor (the "Appointed Governors") shall be appointed by the Board of Governors from candidates recommended to the Board by the Nominating Committee of the Board of Governors.

As of the first annual meeting of members following the Transitional Period, the Appointed Governors shall be divided by the Board of Governors into three classes, as equal in number as possible, with the first class holding office until the first succeeding annual meeting of members, the second class holding office until the second succeeding annual meeting of members and the third class holding office until the third succeeding annual meeting of members, or until a successor is duly appointed and qualified, or until death, resignation, disqualification, or removal. Each class shall initially contain as equivalent a number as possible of Appointed Governors who were members of the NYSE Group Committee during the Transitional Period or are successors to such Governor positions, on the one hand, and Appointed Governors who were members of the NASD Group Committee during the Transitional Period or are successors to such Governor positions, on the other hand, to the extent the Board of Governors determines that such persons are to remain Governors after the Transitional Period. No Appointed Governor may serve more than two consecutive terms. If an Appointed Governor is appointed to fill a vacancy of such a Governor position for a term of less than one year, the Governor may serve up to two consecutive terms following the expiration of the Governor's initial term. At each annual election following the first annual meeting of members following the Transitional Period, Appointed Governors shall be appointed by the Board of Governors for a term of three years to replace those whose terms expire.

As of the first annual meeting of members following the Transitional Period, the Large Firm Governors, the Mid-Size Firm Governor and the Small Firm Governors shall be divided into three classes, as equal in number as possible, with the first class, being comprised of one Large Firm Governor and one Small Firm Governor, holding office until the first succeeding annual meeting of members, the second class, being comprised of one Large Firm Governor, one Mid-Size Firm Governor and one Small Firm Governor, holding office until the second succeeding annual meeting of members and the third class, being comprised of one Large Firm Governor and one Small Firm Governor, holding office until the third succeeding annual meeting of members, or until a successor is duly elected and qualified, or until death, resignation, disqualification, or removal. A Governor elected by members of the Corporation may not serve more than two consecutive terms. If a Governor is elected to fill a vacancy of such a Governor position for a term of less than one year, the Governor may serve up to two consecutive terms following the expiration of the Governor's initial term. At each annual election following the first annual meeting of members following the Transitional Period, Large Firm Governors, Small Firm Governors and the Mid-Size Firm Governor shall be elected for a term of three years to replace those whose terms expire.

In the event of any vacancy among the Large Firm Governors, the Mid-Size Firm Governor or the Small Firm Governors, such vacancy shall only be filled by the Large Firm Governor Committee in the case of a Large Firm Governor vacancy, the Board of Governors in the case of a Mid-Size Firm Governor vacancy or the Small Firm Governor Committee in the case of a Small Firm Governor vacancy; provided, however, that in the event the remaining term of office of any Large Firm, Mid-Size Firm or Small Firm Governor position that becomes

vacant is for more than 12 months, such vacancy shall be filled by the members of the Corporation entitled to vote thereon at a meeting thereof convened to vote thereon.

(c) In furtherance and not in limitation of the powers granted by the General Corporation Law of the State of Delaware, the Board of Governors is expressly authorized unless the By-Laws otherwise provide, to make, alter, or repeal the By-Laws of the Corporation.

In the event of the refusal, failure, neglect, or inability of any member of the Board of Governors to discharge such member's duties, or for any cause affecting the best interest of the Corporation the sufficiency of which the Board of Governors shall be the sole judge, the Board shall have the power, by the affirmative vote of two-thirds of the Governors then in office, to remove such member and declare such member's position vacant and that, subject to this Restated Certificate of Incorporation, it shall be filled in accordance with the provisions of the By-Laws; provided, that during the Transitional Period, (i) a Governor that is a member of the NYSE Group Committee may only be removed by the affirmative vote of a majority of the Governors who are members of the NYSE Group Committee and (ii) a Governor that is a member of the NASD Group Committee may only be removed by the affirmative vote of a majority of the Governors who are members of the NASD Group Committee.

The Corporation may, in its By-Laws, confer powers upon its Board of Governors in addition to the foregoing and in addition to the powers and authorities expressly conferred upon them by the General Corporation Law of the State of Delaware.

#### **Meetings and Offices**

**Ninth:** Both members and the Board of Governors shall have power, if the By-Laws so provide, to hold their meetings and to have one or more offices within or without the State of Delaware and to keep the books of the Corporation (subject to the provision of the statutes), outside the State of Delaware at such places as may be from time to time designated by the Board of Governors.

#### **Right to Amend Certificate of Incorporation**

**Tenth:** The Corporation reserves the right to amend, alter, change, or repeal any provisions contained in this Restated Certificate of Incorporation, in the manner now or hereafter prescribed by statute, and all rights conferred upon members herein are granted subject to this reservation.

#### **Transitional Governance**

**Eleventh:** Notwithstanding anything herein to the contrary, to the extent there is any inconsistency between the other provisions of this Restated Certificate of Incorporation, including, without limitation, Paragraph (b) of Article Eighth, and this Article Eleventh, the provisions of this Article Eleventh shall govern as of Closing and for the Transitional Period to the fullest extent permitted by applicable law:

(a) The Corporation shall be managed under the direction of a Board of Governors having such powers and duties as shall be provided from time to time in this Restated Certificate of Incorporation or the By-Laws of the Corporation; provided, however, that (i) during the

Transitional Period, the Board of Governors, after consultation with the Chief Executive Officer of the Corporation, shall have the exclusive authority to appoint any Lead Governor of the Corporation, (ii) during the Transitional Period, the Board of Governors, after receiving the recommendation of the Chief Executive Officer, shall have the exclusive authority to appoint the Chair of the Finance Committee and (iii) during the Transitional Period, the Nominating Committee of the Board of Governors will be jointly populated by the Chief Executive Officer and the Chief Executive Officer of NYSE Regulation, Inc. as of Closing (or his duly appointed or elected successor as Chair of the Board of Governors), subject to ratification of the appointees by the Board of Governors. Any Governor elected by members of the Corporation must be nominated by the Nominating Committee or certified by the Secretary of the Corporation (as provided in the By-Laws of the Corporation) and must satisfy the other qualifications for Governors set forth in this Restated Certificate of Incorporation or the By-Laws or established by resolution of the Board of Governors from time to time, which qualifications shall be consistent with the "Plan of Allocation and Delegation of Functions by NASD to Subsidiaries"; provided, however, that, in the case of the first annual meeting of members following the Closing, nominations shall be by the Board of Directors of NYSE Group, Inc. with respect to Large Firm Governors, jointly by the Board of Directors of NYSE Group, Inc. and the Board of Governors in office prior to the Closing with respect to the Mid-Size Firm Governor and by the Board of Governors in office prior to the Closing with respect to Small Firm Governors, instead of the Nominating Committee.

(b) Upon the Closing, the term of office of each Governor in office immediately prior to the Closing who is not to be a Governor as of Closing pursuant to the immediately succeeding paragraph shall automatically, and without any further action, terminate, and such persons shall no longer be members of the Board of Governors.

(c) As of Closing, and for the Transitional Period, the Board of Governors shall consist of 23 authorized members, consisting of (i) the Chief Executive Officer of the Corporation, (ii) the Chief Executive Officer of NYSE Regulation, Inc., (iii) eleven Public Governors, (iv) a Floor Member Governor, an Independent Dealer/Insurance Affiliate Governor and an Investment Company Affiliate Governor and (v) three Small Firm Governors, one Mid-Size Firm Governor and three Large Firm Governors; provided, however that the Board of Governors shall not include such Small Firm Governors, Mid-Size Firm Governor or Large Firm Governors, but rather shall include three persons, who immediately prior to the Closing are Industry Governors, selected by the Board of Governors in office prior to the Closing, three persons, who immediately prior to the Closing qualified as Industry Governors pursuant to the By-Laws in existence prior to the Closing, selected by the Board of Directors of NYSE Group, Inc. and one person, who immediately prior to the Closing qualified as an Industry Governor pursuant to the By-Laws in existence prior to the Closing, selected by the Board of Directors of NYSE Group, Inc. and the Board of Governors in office prior to the Closing jointly, until the election of such Small Firm Governors, Mid-Size Firm Governor or Large Firm Governors at the first annual meeting of members following the Closing (which shall be held as soon as practicable after the Closing).

The Chief Executive Officer shall serve as a Governor until a successor is elected, or until death, resignation, or removal.

The Chief Executive Officer of NYSE Regulation, Inc. as of Closing shall serve as a Governor during the Transitional Period, until death, resignation, or removal; provided, however, in the event of a vacancy during the Transitional Period with respect to this Governor position by virtue of death, resignation or removal, the then Chief Executive Officer of NYSE Regulation, Inc. shall serve as a Governor for the remainder of the Transitional Period, until death, resignation or removal; provided, further however, a person who becomes a Governor pursuant to the immediately preceding proviso shall not be qualified to serve as Chair of the Board of Governors.

Effective as of Closing, the Board of Directors of NYSE Group, Inc. shall appoint the NYSE Public Governors, the Board of Governors in office prior to the Closing shall appoint the NASD Public Governors and the Board of Directors of NYSE Group, Inc. and the Board of Governors in office prior to the Closing jointly shall appoint the Joint Public Governor.

The Public Governors appointed in accordance with the preceding paragraph shall hold office for the Transitional Period, or until death, resignation, disqualification, or removal. In the event of any vacancy among the NYSE Public Governors, the Joint Public Governor or the NASD Public Governors during the Transitional Period, such vacancy shall only be filled by, and nominations for persons to fill such vacancy shall be made by, the NYSE Group Committee in the case of a vacant NYSE Public Governor position, such vacancy shall only be filled by the Board of Governors, and nominations for persons to fill such vacancy shall be made by the Nominating Committee, in the case of a vacant Joint Public Governor position or such vacancy shall only be filled by, and nominations for persons to fill such vacancy shall be made by, the NASD Group Committee in the case of a vacant NASD Public Governor position.

Effective as of Closing, the Board of Directors of NYSE Group, Inc. shall appoint the Floor Member Governor, the Board of Governors in office prior to the Closing shall appoint the Independent Dealer/Insurance Affiliate Governor and the Board of Directors of NYSE Group, Inc. and the Board of Governors in office prior to the Closing jointly shall appoint the Investment Company Affiliate Governor.

The Floor Member Governor, the Investment Company Affiliate Governor and the Independent Dealer/Insurance Affiliate Governor appointed in accordance with the preceding paragraph shall hold office for the Transitional Period, or until death, resignation, disqualification, or removal. In the event of any vacancy among the Floor Member Governor, the Investment Company Affiliate Governor or the Independent Dealer/Insurance Affiliate Governor during the Transitional Period, such vacancy shall only be filled by, and nominations for persons to fill such vacancy shall be made by, the NYSE Group Committee in the case of a Floor Member Governor vacancy, such vacancy shall only be filled by the Board of Governors, and nominations for persons to fill such vacancy shall be made by the Nominating Committee, in the case of an Investment Company Affiliate Governor vacancy or such vacancy shall only be filled by, and nominations for persons to fill such vacancy shall be made by, the NASD Group Committee in the case of an Independent Dealer/Insurance Affiliate Governor vacancy.

Three Large Firm Governors, three Small Firm Governors and one Mid-Size Firm Governor shall be elected as Governors at the first annual meeting of members following the Closing (the "Initial Member Elected Governors"). The Initial Member Elected Governors shall

hold office until the first annual meeting of members following the Transitional Period, or until a successor is duly elected and qualified, or until death, resignation, disqualification, or removal.

In the event of any vacancy among the Large Firm Governors, the Mid-Size Firm Governor or the Small Firm Governors during the Transitional Period, such vacancy shall only be filled by, and nominations for persons to fill such vacancy shall be made by, the NYSE Group Committee in the case of a Large Firm Governor vacancy, such vacancy shall only be filled by the Board of Governors, and nominations for persons to fill such vacancy shall be made by the Nominating Committee, in the case of a Mid-Size Firm Governor vacancy or such vacancy shall only be filled by, and nominations for persons to fill such vacancy shall be made by, the NASD Group Committee in the case of a Small Firm Governor vacancy; provided, however, that in the event the remaining term of office of any Large Firm, Mid-Size Firm or Small Firm Governor position that becomes vacant is for more than 12 months, such vacancy shall be filled by the members of the Corporation entitled to vote thereon at a meeting thereof convened to vote thereon.

(d) The annual meeting of members shall be on such date and at such place as the Board of Governors shall designate; provided, however, that, except for the first annual meeting following the Closing at which Large Firm Governors, the Mid-Size Firm Governor and Small Firm Governors shall be elected, there shall be no annual meetings of members during the Transitional Period.

(e) Upon the expiration of the Transitional Period, the term of office of the Chief Executive Officer of NYSE Regulation, Inc. as a member of the Board shall automatically, and without any further action, terminate, such person shall no longer be a member of the Board of Governors and the authorized number of members of the Board of Governors shall automatically be reduced by one.

### Definitions

**Twelfth:** For purposes hereof:

A) "bank" shall mean:

- (1) a banking institution organized under the laws of the United States;
- (2) a member bank of the Federal Reserve System;
- (3) any other banking institution, whether incorporated or not, doing business under the laws of any State or of the United States, a substantial portion of the business of which consists of receiving deposits or exercising fiduciary powers similar to those permitted to national banks under the authority of the Comptroller of the Currency pursuant to the first section of Public Law 87-722 (12 U.S.C. § 92a), and which is supervised and examined by a State or Federal authority having supervision over banks, and which is not operated for the purpose of evading the provisions of the Securities Exchange Act of 1934, as amended (the "Act"); and
- (4) a receiver, conservator, or other liquidating agent of any institution or firm

included in clauses (1), (2), or (3) of this definition;

- B) "broker" shall mean any individual, corporation, partnership, association, joint stock company, business trust, unincorporated organization, or other legal entity engaged in the business of effecting transactions in securities for the account of others, but does not include a bank;
- C) "Closing" shall mean the closing of the consolidation of certain member firm regulatory functions of NYSE Regulation, Inc. and the Corporation;
- D) "controlling" shall mean the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting stock, by contract or otherwise. A person who is the owner of 20% or more of the outstanding voting stock of any corporation, partnership, unincorporated association or other entity shall be presumed to have control of such entity, in the absence of proof by a preponderance of the evidence to the contrary. Notwithstanding the foregoing, a presumption of control shall not apply where such person holds voting stock, in good faith, as an agent, bank, broker, nominee, custodian or trustee for one or more owners who do not individually or as a group have control of such entity;
- E) "dealer" shall mean any individual, corporation, partnership, association, joint stock company, business trust, unincorporated organization, or other legal entity engaged in the business of buying and selling securities for such individual's or entity's own account, through a broker or otherwise, but does not include a bank, or any person insofar as such person buys or sells securities for such person's own account, either individually or in some fiduciary capacity, but not as part of a regular business;
- F) "Floor Member Governor" shall mean a member of the Board of Governors appointed as such who is a person associated with a member (or a firm in the process of becoming a member) which is a specialist or floor broker on the New York Stock Exchange trading floor;
- G) "Independent Dealer/Insurance Affiliate Governor" shall mean a member of the Board of Governors appointed as such who is a person associated with a member which is an independent contractor financial planning member firm or an insurance company, or an affiliate of such a member;
- H) "Industry Governor" shall mean the Floor Member Governor, the Independent Dealer/Insurance Affiliate Governor and the Investment Company Affiliate Governor and any other Governor (excluding the Chief Executive Officer of the Corporation and, during the Transitional Period, the Chief Executive Officer of NYSE Regulation, Inc.) who:
- (1) is or has served in the prior year as an officer, director (other than as an independent director), employee or controlling person of a broker or dealer; or
  - (2) has a consulting or employment relationship with or provides professional services to a self regulatory organization registered under the Act or has had

any such relationship or provided any such services at any time within the prior year;

- I) "Investment Company Affiliate Governor" shall mean a member of the Board of Governors of the Corporation appointed as such who is a person associated with a member which is an "investment company" as such term is defined in The Investment Company Act of 1940, as amended, or an affiliate of such a member;
- J) "Joint Public Governor" shall mean the one Public Governor to be appointed as such by the Board of Directors of NYSE Group, Inc. and the Board of Governors in office prior to the Closing jointly;
- K) "Large Firm Governors" shall mean the members of the Board of Governors of the Corporation to be elected by Large Firm Members, provided, however, that in order to be eligible to serve, a Large Firm Governor must be an Industry Governor and must be registered with a member which is a Large Firm Member;
- L) "Large Firm Governor Committee" shall mean a committee of the Board of Governors comprised of all of the Large Firm Governors;
- M) "Large Firm Member" shall mean any broker or dealer admitted to membership in the Corporation which, at the time of determination, has 500 or more registered persons;
- N) "Mid-Size Firm Governor" shall mean the member of the Board of Governors of the Corporation to be elected by Mid-Size Firm Members, provided, however, that in order to be eligible to serve, a Mid-Size Firm Governor must be an Industry Governor and must be registered with a member which is a Mid-Size Firm Member;
- O) "Mid-Size Firm Member" shall mean any broker or dealer admitted to membership in the Corporation which, at the time of determination, has at least 151 and no more than 499 registered persons;
- P) "NASD Group Committee" shall mean a committee of the Board of Governors comprised of the five Public Governors and the Independent Dealer/Insurance Affiliate Governor appointed as such by the Board of Governors in office prior to Closing, and the Small Firm Governors which were nominated for election as such by the Board of Governors in office prior to Closing, and in each case their successors;
- Q) "NASD Public Governors" shall mean the five Public Governors to be appointed as such by the Board of Governors in office prior to the Closing effective as of Closing;
- R) "NYSE Group Committee" shall mean a committee of the Board of Governors comprised of the five Public Governors and the Floor Member Governor appointed as such by the Board of Directors of NYSE Group, Inc., and the Large Firm Governors which were nominated for election as such by the Board of Directors of NYSE Group, Inc., and in each case their successors;
- S) "NYSE Public Governors" shall mean the five Public Governors to be appointed as such by the Board of Directors of NYSE Group, Inc. effective as of Closing;

T) "person associated with a member" shall mean:

- (1) a natural person who is registered or has applied for registration under the Rules of the Corporation;
- (2) a sole proprietor, partner, officer, director, or branch manager of a member, or other natural person occupying a similar status or performing similar functions, or a natural person engaged in the investment banking or securities business who is directly or indirectly controlling or controlled by a member, whether or not any such person is registered or exempt from registration with the Corporation under the By-Laws of the Corporation or the Rules of the Corporation; and
- (3) for purposes of Rule 8210, any other person listed in Schedule A of Form BD of a member;

U) "Public Governor" shall mean any Governor who is not the Chief Executive Officer of the Corporation or, during the Transitional Period, the Chief Executive Officer of NYSE Regulation, Inc., who is not an Industry Governor and who otherwise has no material business relationship with a broker or dealer or a self regulatory organization registered under the Act (other than serving as a public director of such a self regulatory organization);

V) "Rules of the Corporation" or "Rules" shall mean the numbered rules set forth in the manual of the Corporation beginning with the Rule 0100 Series, as adopted by the Board of Governors of the Corporation pursuant to the By-Laws of the Corporation, as hereafter amended or supplemented;

W) "Small Firm Governors" shall mean the members of the Board of Governors of the Corporation to be elected by Small Firm Members, provided, however, that in order to be eligible to serve, a Small Firm Governor must be registered with a member which is a Small Firm Member and must be an Industry Governor;

X) "Small Firm Governor Committee" shall mean a committee of the Board of Governors comprised of all the Small Firm Governors;

Y) "Small Firm Member" shall mean any broker or dealer admitted to membership in the Corporation which, at the time of determination, has at least 1 and no more than 150 registered persons; and

Z) "Transitional Period" shall mean the period commencing on the date of the Closing and ending on the third anniversary of the date of the Closing.

IN WITNESS WHEREOF, this Restated Certificate of Incorporation has been signed under the seal of the Corporation the 30 day of July 2007.

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

By:



T. GRANT CARTER  
EVP + GENERAL COUNSEL



# State of Rhode Island and Providence Plantations

**A. Ralph Mollis**

*Secretary of State*

## STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

I, A. RALPH MOLLIS, Secretary of State of the State of Rhode Island  
and Providence Plantations, hereby certify that this document, duly  
executed in accordance with the provisions of Title 7 of the General Laws  
of Rhode Island, as amended, has been filed in this office on this day:

A handwritten signature in black ink that reads "A. Ralph Mollis".

A. RALPH MOLLIS

*Secretary of State*

