C. Maintenance

The Index will be maintained by the CBOE. The CBOE may change the composition of the Index at any time, subject to compliance with the maintenance criteria discussed below, to reflect the conditions in the emerging Asian securities markets, excluding Japan. If it becomes necessary to replace the securities issued by a closed-end fund contained in the Index, the Exchange represents that every effort will be made to add only replacement securities issued by closed-end mutual funds that preserve the character of the Index and that are listed on either the American Stock Exchange ("Amex") or the NYSE, or that are Nasdaq National Market ("Nasdaq/NM") securities.14 In considering securities of closed-end mutual funds to be added to the Index, the CBOE will take into account the capitalization, liquidity, volatility, and name recognition of the particular closed-end funds and the securities issued by those mutual funds. Further, a closed-end fund represented in the Index may be replaced in the event of certain events, such ass a change in the investment objectives of the mutual fund. The Exchange will most likely maintain securities representing 15 closed-end funds in the Index.¹⁵ In addition, in choosing securities issued by closed-end funds as replacements for or additions to the Index, the CBOE will not make a composition change that would result in less than 75% of the weight of the Index or 75% of the number of closed-end funds represented in the Index satisfying the listing criteria for standardized options trading set forth in CBOE Rule 5.3, Interpretation and Policy .01 (for mutual fund securities that are not then the subject of standardized options trading)16 and CBOE Rule 5.4, Interpretation and Policy .01 (for mutual fund securities that are then the subject of standardized

¹⁶ *Id.* The CBOE's options listing standards, which are uniform among the options exchanges, provide that a security underlying an option must, among other things, meet the following requirements: (1) the public float must be at least 7,000,000 shares; (2) there must be a minimum of 2,000 stockholders; (3) trading volume in the U.S. must have been at least 2.4 million over the preceding twelve months; and (4) the U.S. market price must have been at least \$7.50 for a majority of the business days during the preceding three calendar months. *See* CBOE rule 5.3, Interpretation and Policy .01.

options trading).¹⁷ Additionally, at least twice each year the CBOE will review the Index to ensure that not less than 75% of the weight of the Index and 75% of the number of closed-end funds represented in the Index continue to satisfy the criteria for standardized options trading set forth in CBOE Rule 5.3, Interpretation and Policy .01 (for mutual fund securities that are not then the subject of standardized options trading) and CBOE Rule 5.4, Interpretation and Policy .01 (for mutual fund securities that are then the subject of standardized options trading).

Moreover, at least twice each year, based on the most recent Commission filings by the closed-end funds represented in the Index, the CBOE will review the holdings of each of the closed-end funds and will promptly notify the Commission if it becomes aware that: (1) any security held by one or more mutual funds represented in the Index, in aggregate, accounts for more than 5% of the weight of the Index; or (2) securities from any one country held by one or more mutual funds represented in the Index, in aggregate, account for more than 25% of the weight of the Index.

Finally, the CBOE will promptly notify the Commission staff at any time that the CBOE determines that the securities of a closed-end fund contained in the Index account for more than 15% of the weight of the Index if: (1) the shares of the mutual fund do not satisfy the listing eligibility requirements in CBOE Rule 5.3, Interpretation and Policy .01 (if the mutual fund does not then have standardized options trading on its shares); or (2) the shares of the mutual fund do not satisfy the maintenance eligibility requirements in CBOE Rule 5.4, Interpretation and Policy .01 (if the mutual fund has standardized options trading on its shares).18

The CBOE will promptly notify the Commission staff at any time that the CBOE determines that either the Index or the securities issued by the closedend funds comprising the Index fail to satisfy any of the above maintenance criteria. Further, in such an event, the Exchange will not open for trading any additional series of Index options or Index LEAPS unless the Exchange determines that such failure is not significant, and the Commission staff affirmatively concurs in that determination, or unless the Commission specifically approves the continued listing of that class of Index options or Index LEAPS pursuant to a proposal filed in accordance with Section 19(b)(2) of the Act.¹⁹

D. Applicability of CBOE Rules Regarding Index Options

Except as modified by this order, the rules in Chapter XXIV of the CBOE Rules will be applicable to Index options and full-value and reducedvalue Index LEAPS. In accordance with Chapter XXIV of CBOE's rules, the Index will be treated as a narrow-based index for purposes of applicable position and exercise limits, policies regarding trading halts and suspensions, and margin treatment.²⁰

E. Calculation of the Index

The CBOE Emerging Asian Markets Index is a price-weighted index and reflects changes in the prices of the closed-end mutual fund securities comprising the Index relative to the Index's base date of December 31, 1991. Specifically, the Index value is calculated by adding the prices of the mutual fund securities comprising the Index and then dividing this summation by a divisor that is equal to the number of the closed-end funds represented in the Index in order to obtain an average price. To maintain the continuity of the Index, the divisor will be adjusted to reflect non-market changes in the prices of the closed-end fund securities comprising the Index as well as changes in the composition of the Index. Changes that may result in divisor adjustments include, but are not limited to, certain rights issuances.

The Index will be calculated continuously and will be disseminated to the Options Price Reporting Authority ("OPRA") every fifteen seconds by the CBOE, based on the lastsale prices of the closed-end fund securities comprising the Index.²¹ OPRA, in turn, will disseminate the

¹⁴ Additionally, the CBOE will be required to ensure that each closed-end fund security comprising the Index is a "reported security" as defined in Rule 11Aa3–1 of the Act. *See* Amendment No. 2, *supra* note 5.

¹⁵ If the CBOE determines to increase the number of components to greater than 20 or to decrease the number of components to less than 10, the Exchange will be required to submit a rule filing pursuant to Section 19(b) of the Act. *Id.*

¹⁷ See Amendment No. 2, *supra* note 5. The CBOE's options maintenance standards, which are uniform among the options exchanges, provide that a security underlying an option must, among other things, meet the following requirements: (1) the public float must be at least 6,300,000 shares; (2) there must be a minimum of 1,600 stockholders; (3) trading volume in the U.S. must have been at least 1.8 million over the preceding twelve months; and (4) the U.S. market price must have been at least \$5.00 for a majority of the business days during the preceding six calendar months. *See* CBOE Rule 5.3, Interpretation and Policy .01.

¹⁸ See Amendment No. 2, supra note 5.

¹⁹ Id.

²⁰ See infra Section II.H.

²¹ For purposes of dissemination of the Index value, if the shares of a mutual fund included in the Index have not opened for trading, the CBOE will use the closing value of those shares on the prior trading day when calculating the value of the Index, until the shares of the mutual fund open for trading.