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**Certified Copy**  
**Certificate of Amendment**  
**OF**  
**Certificate of Incorporation**  
**OF**  
**MERRILL LYNCH, PIERCE, FENNER & SMITH**  
**INCORPORATED**

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April 14, 1970

{ Filed with the Secretary of State of Delaware and Certified Copy  
Recorded by the Recorder of New Castle County, Delaware April 15, 1970 }

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CERTIFICATE OF AMENDMENT  
OF  
CERTIFICATE OF INCORPORATION  
OF  
MERRILL LYNCH, PIERCE, FENNER & SMITH  
INCORPORATED

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MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED, a corporation organized and existing under and by virtue of the General Corporation Law of the State of Delaware, DOES HEREBY CERTIFY:

FIRST: That the Board of Directors of the said corporation, at a meeting duly convened and held, adopted resolutions proposing and declaring advisable certain amendments to the Certificate of Incorporation of the said corporation and directing that such amendments be submitted to the annual meeting of the stockholders of the said corporation called, among other purposes, for the consideration thereof. The resolution of the said Board of Directors setting forth the proposed amendments is as follows:

RESOLVED, that, the Board of Directors hereby proposes and declares it to be advisable that the Certificate of Incorporation, as amended and supplemented by all certificates heretofore filed and recorded, be amended by making revisions in Sections 1, 2, 3 and 4 of Article IV and in Article XII(e) and (f) as hereinafter set forth, by the adoption of a new Section 4 of Article IV, by renumbering the present Section 4 of Article IV as Section 5 of Article IV, and by revising the text of Article VI, of Article VII and of Article XII(i) so that each and every reference therein to "capital stock" shall be deleted and that the words "common stock" shall be inserted in place thereof, and that as the result of such amendment Sections 1, 2, 3, 4 and 5 (as so renumbered) of Article IV, Article

XII(e) and Article XII(f) thereof respectively shall be and read as follows:

#### ARTICLE IV

“SECTION 1. *Shares, Classes and Series Authorized.* The total number of shares of capital stock of all classes which the Corporation shall have authority to issue is nineteen million (19,000,000) shares, of which eighteen million (18,000,000) shares shall be common stock of the par value of four dollars (\$4.00) each (hereinafter called “common stock”) and one million (1,000,000) shares shall be preferred stock of the par value of twenty-five dollars (\$25.00) each (hereinafter called “preferred stock”). The common stock is hereby authorized to be issued in two series, designated respectively as Voting Common Stock (hereinafter called “Voting Stock”) and Non-Voting Common Stock (hereinafter called “Non-Voting Stock”). Ten million thirty-nine thousand eight hundred (10,039,800) shares of common stock are authorized to be issued as shares of Voting Stock, seven million one hundred sixty thousand nine hundred (7,160,900) shares of common stock are hereby authorized to be issued as shares of Non-Voting Stock, and seven hundred ninety-nine thousand three hundred (799,300) shares of common stock are hereby authorized to be issued as shares of Voting Stock or Non-Voting Stock in such numbers as may from time to time be designated and fixed in a resolution adopted by the Board of Directors of the Corporation and filed and recorded in accordance with the provisions of the General Corporation Law of the State of Delaware. The preferred stock is hereby authorized to be issued from time to time in one or more series, the shares of each series to have such designations, preferences and relative, participating, optional or other special rights and qualifications, limitations or restrictions thereof as shall be stated and expressed in this Certificate of Incorporation and in the resolutions adopted by the Board of Directors providing for the issue thereof.

“SECTION 2. *Increase or Decrease in Amount of Authorized Shares.* The number of authorized shares of any class or classes of capital stock may be increased or decreased by an

amendment to this Certificate of Incorporation authorized by the affirmative vote of the holders of a majority of the common stock outstanding, without regard to class or series.

“SECTION 3. *Rights and Restrictions of Common Stock.* The powers, preferences and rights and the qualifications, limitations or restrictions thereof in respect of the series of common stock are as follows:

(a) Subject to the provisions of this Article IV with respect to preferred stock and of Section 8 of Article VI hereof, all rights to vote and all voting power (including, without limitation thereto, the right to elect directors) shall be vested exclusively in the shares of Voting Stock, and shares of Non-Voting Stock shall not entitle the holder thereof to have any right to vote or to receive any notice of any meeting of the holders of the Corporation's capital stock or to exercise any voting power except as provided in Section 2 of this Article IV or as otherwise required by the laws of the State of Delaware.

(b) Subject to the provisions of Section 8 of Article VI hereof, when and as dividends are declared payable to holders of shares of the Corporation's common stock in cash, property or shares of the Corporation's capital stock, the shares of Voting Stock and the shares of Non-Voting Stock shall be entitled to share equally, share for share, in such dividends; *provided, however*, that dividends payable in shares of the Corporation's common stock shall be payable on shares of Voting Stock only in shares of such Voting Stock, and on shares of Non-Voting Stock only in shares of such Non-Voting Stock.

(c) Except as otherwise provided in this Certificate of Incorporation, the powers, preferences and rights and the qualifications, limitations or restrictions thereof of the Voting Stock and the Non-Voting Stock shall be in all respects identical, share for share, and neither series shall have any preference over the other in the payment or distribution of assets of the Corporation in the event of any voluntary or involuntary liquidation, dissolution or winding up of the Corporation.

“SECTION 4. *Rights and Restrictions of Preferred Stock.* Authority is hereby expressly granted to the Board of Directors of the Corporation, subject to the provisions of this Article IV and to the limitations prescribed by law, to authorize the issue from time to time of one or more series of preferred stock and with respect to each such series to fix by resolution or resolutions adopted by the affirmative vote of a majority of the whole Board of Directors providing for the issue of such series the voting powers, full or limited, if any, of the shares of such series and the designations, preferences and relative, participating, optional or other special rights and the qualifications, limitations or restrictions thereof. The authority of the Board of Directors with respect to each series shall include, but not be limited to, the determination or fixing of the following:

(a) The designation of such series.

(b) The dividend rate of such series, the conditions and dates upon which such dividends shall be payable, the relation which such dividends shall bear to the dividends payable on any other class or classes or series of the Corporation's capital stock, and whether such dividends shall be cumulative or non-cumulative.

(c) Whether the shares of such series shall be subject to redemption by the Corporation at the option of either the Corporation or the holder or both, and, if made subject to any such redemption, the times or events, prices and other terms and conditions of such redemption.

(d) The terms and amount of any sinking fund provided for the purchase or redemption of the shares of such series.

(e) Whether or not the shares of such series shall be convertible into or exchangeable for shares of any other class or classes or of any other series of any class or classes of the Corporation's capital stock, and, if provision be made for conversion or exchange, the times or events, prices, rates, adjustments, and other terms and conditions of such conversions or exchanges.

(f) The restrictions, if any, on the issue or reissue of any additional preferred stock.

(g) The rights of the holders of the shares of such series upon the voluntary or involuntary liquidation, dissolution or winding up of the Corporation.

“SECTION 5. *Definition of Holder and Stockholder.* The term “holder” or “stockholder” as used in this Certificate of Incorporation means a legal owner of shares of capital stock of the Corporation, and, unless the context indicates otherwise, includes, without limiting the generality of the foregoing, the legal representative of a deceased or incompetent natural person and an involuntary transferee of shares of the Corporation’s common stock referred to in paragraph (c) of Section 1 of Article VI hereof.

## ARTICLE XII

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“(e) Subject to the approval of those exchanges, boards of trade, clearing corporations, or similar institutions whose approval is required, to grant rights or options entitling the holders thereof to purchase from the Corporation shares of its capital stock of any class or series (to be evidenced by or in such instrument or instruments as shall be approved by the Board of Directors); the terms upon which, the time or times at or within which, and the price or prices at which any such rights or options may be issued and any such shares may be purchased from the Corporation upon the exercise of any such right or option, shall be such as shall be fixed in a resolution or resolutions adopted by the Board of Directors providing for the creation and issue of such rights or options; *provided, however,* that no rights or options may be issued for the purchase of shares of the common stock of the Corporation from the Corporation at a price per share less than the net book value thereof determined in the manner prescribed in Section 6 of Article VI hereof, as of the close of the regular monthly accounting period next preceding the date on which such rights or options are granted, reduced by the amount of any dividends payable on such shares to stockholders of record on a date subsequent to the close of the aforementioned regular monthly accounting period and prior to the date on which such

rights or options are granted. In the absence of actual fraud in the transaction, the judgment of the Board of Directors as to the consideration for the issuance of such rights or options and the sufficiency thereof shall be conclusive. No such rights or options shall be invalidated or in any way affected by the fact that any director shall be a grantee thereof or shall vote for the issuance of such rights or options to himself or for any plan pursuant to which he may receive any such rights or options.

“(f) Subject to the approval of those exchanges, boards of trade, clearing corporations, or similar institutions whose approval is required, to adopt such plans as may, from time to time, be approved by it for the purchase by officers or employees of the Corporation and of any corporation either affiliated with or a subsidiary of the Corporation of shares of capital stock of the Corporation of any class or series; the terms upon which and the price or prices at which shares may be purchased from the Corporation pursuant to such a plan shall be such as shall be fixed by the Board of Directors in the plan, but such price or prices for shares of common stock shall not be less than the net book value of the shares so purchased, determined in the manner prescribed in Section 6 of Article VI hereof, as of the close of the regular monthly accounting period next preceding the date on which such plan was adopted or on which any shares of common stock are purchased pursuant thereto, reduced, in the latter case, by the amount of any dividends payable on such shares of common stock to stockholders of record on a date subsequent to the close of the aforementioned regular monthly accounting period next preceding the date on which any such shares of common stock are purchased and prior to the date when the purchaser under such plan becomes the stockholder of record thereof, as may be provided in such plan. No such plan which is not at the time of adoption unreasonable or unfair shall be invalidated or in any way affected because any director shall be entitled to purchase shares of capital stock of the Corporation thereunder and shall vote for any such plan.”

SECOND: That thereafter, the annual meeting of the stockholders of the said corporation was duly held, and, pursuant to resolution of

its Board of Directors, the foregoing proposed amendments were submitted to the stockholders of the said corporation entitled to vote thereon at said annual meeting of stockholders, such amendments being submitted to and voted upon by the holders of Voting Common Stock and by the holders of Non-Voting Common Stock as a single class, at which meeting the necessary numbers of stockholders required by statute voted in favor of the foregoing amendments.

THIRD: That the foregoing amendments have been duly adopted in accordance with the provisions of Section 242 of the General Corporation Law of the State of Delaware.

FOURTH: That the capital of the said corporation will not be reduced under or by reason of the foregoing amendments.

IN WITNESS WHEREOF, said MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED has caused its corporate seal to be hereunto affixed and this certificate to be signed by its Chairman of the Board of directors and attested by its Assistant Secretary this 14th day of April, 1970.

MERRILL LYNCH, PIERCE,  
FENNER & SMITH  
INCORPORATED  
Corporate Seal  
1958  
Delaware

MERRILL LYNCH, PIERCE, FENNER & SMITH  
INCORPORATED

By JAMES E. THOMSON  
*Chairman of the Board of directors*

Attest:

MALCOLM R. WILLIAMSON, JR.  
*Assistant Secretary*

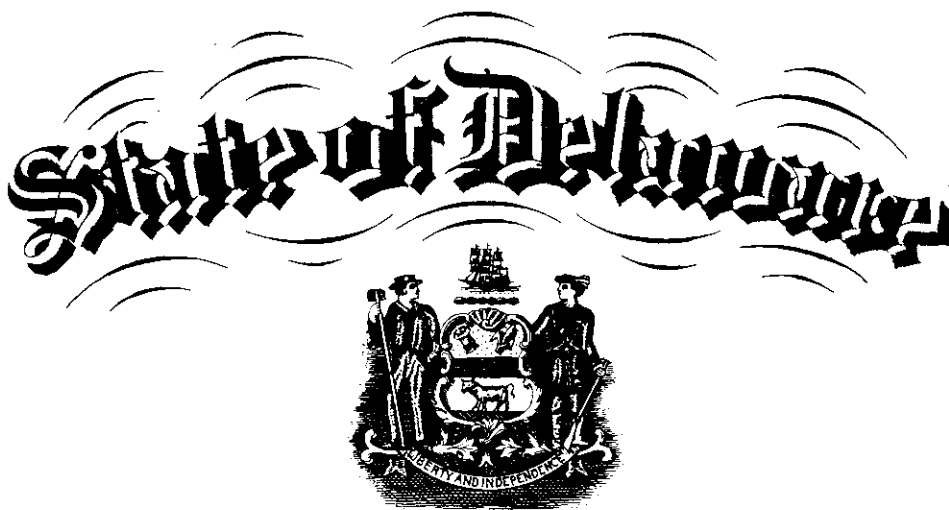
STATE OF NEW YORK }  
COUNTY OF NEW YORK } ss.:

BE IT REMEMBERED that on this 14th day of April, 1970, personally came before me, STEVEN R. NARKER, a Notary Public in and for the County and State aforesaid, JAMES E. THOMSON, Chairman of the Board of directors of MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED, a corporation of the State of Delaware, the corporation described in and which executed the foregoing certificate, known to me personally to be such, and he, the said JAMES E. THOMSON, as such Chairman of the Board of directors, duly executed said certificate before me and acknowledged the said certificate to be the act and deed of said corporation and that the facts stated in the said certificate are true; that the signature of the said Chairman of the Board of directors of said corporation to said foregoing certificate is in the handwriting of the said Chairman of the Board of directors of said Corporation, and that the seal affixed to said certificate is the common or corporate seal of said corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and seal of office the day and year aforesaid.

STEVEN R. NARKER  
NOTARY PUBLIC  
STATE OF NEW YORK

STEVEN R. NARKER  
STEVEN R. NARKER  
Notary Public, State of New York  
No. 24-8099085  
Qualified in Kings County  
Certificate filed in New York County  
Commission Expires March 30, 1972



**Office of Secretary of State.**

*J. Eugene Bunting, Secretary of State of the State of Delaware,*  
do hereby certify that the above and foregoing is a true and correct copy of  
Certificate of Amendment of the "MERRILL LYNCH, PIERCE, FENNER & SMITH  
INCORPORATED", as received and filed in this office the fifteenth  
day of April, A.D. 1970, at 10 o'clock A.M.

In Testimony Whereof, I have hereunto set my hand  
and official seal at Dover this fourteenth day  
of May in the year of our Lord  
one thousand nine hundred and seventy.

*Eugene Bunting*

Secretary of State

*R. H. Caldwell*

Asst. Secretary of State