

considered carefully and responded adequately to comments and concerns raised about previous versions of the proposed rule. As evidence of FINRA's commitment to drafting a narrowly tailored rule while maintaining comprehensive investor protection standards, the Commission points to the discussion above which highlights the many revisions FINRA made to the proposal to address comments and concerns raised through four separate opportunities for comment.

## VI. Accelerated Approval

The Commission finds good cause, pursuant to Section 19(b)(2) of the Exchange Act,<sup>195</sup> for approving the proposed rule change, as modified by Amendments Nos. 1, 2, and 3 thereto, prior to the 30th day after publication of notice of the filing of Amendment No. 3 in the **Federal Register**. The proposed rule change was informed by FINRA's consideration of, and the incorporation of many suggestions made in comments on a 2009 proposal to members to harmonize and modernize the communications with the public rules,<sup>196</sup> the Original Proposal, the Notice and Proceedings Order, and Amendment No. 2. Amendment No. 3 reflects FINRA's efforts to further address commenter concerns and minimize burdens resulting from the proposed rule's requirements.

Accordingly, the Commission finds that good cause exists to approve the proposal, as modified by Amendment Nos. 1, 2 and 3 on an accelerated basis.

## VII. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether Amendment No. 3 to the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

### Electronic Comments

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-FINRA-2011-035 on the subject line.

### Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549-1090.

All submissions should refer to File Number SR-FINRA-2011-035. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of FINRA. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-FINRA-2011-035 and should be submitted on or before April 25, 2012.

## VIII. Conclusion

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Act,<sup>197</sup> that the proposed rule change (SR-FINRA-2011-035), as modified by Amendments Nos. 1, 2 and 3, be, and hereby is, approved on an accelerated basis.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>198</sup>

**Kevin M. O'Neill**,  
Deputy Secretary.

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-66677; File No. SR-C2-2012-006]

### Self-Regulatory Organizations; C2 Options Exchange, Incorporated; Order Approving Proposed Rule Change Relating to Its Automated Improvement Mechanism

March 29, 2012.

On January 31, 2012, the C2 Options Exchange, Incorporated ("Exchange") filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> a proposed rule change to amend C2 Rule 6.51, which relates to the Exchange's Automated Improvement Mechanism ("AIM"). The proposal would permit a participant ("Participant"), when submitting an agency order to AIM to initiate an auction against a single price submission, to elect to have last priority in the AIM auction's order allocation.<sup>3</sup>

The proposed rule change was published for comment in the **Federal Register** on February 17, 2012.<sup>4</sup> The Commission received no comments on the proposal.

After careful review, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange<sup>5</sup> and, in particular, the requirements of Section 6(b)(5) of the Act,<sup>6</sup> in that it is designed to provide additional flexibility for Participants to obtain executions on behalf of their customers through AIM because the initiating Participants may elect to have

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> In an AIM auction, described here generally, a Participant submits into the mechanism an order that it represents as agent ("Agency Order") along with a contra-side order at a specified price (which must comply with parameters set forth in Rule 6.51) and for the same size that either represents principal interest of the Participant or is a solicited order. Certain Participants, as set forth in Rule 6.51, then can compete with the contra-side order by submitting bids (offers) to execute against the Agency Order. After better-priced orders are filled and public customers competing at the best price receive their allocations, the Participant is granted priority ahead of other participants to execute against 40% (in some circumstances 50%) of the original size of the Agency Order. Under the proposed rule change, the initiating Participant will be able to elect to have last priority.

<sup>4</sup> See Securities Exchange Act Release No. 66384 (February 13, 2012), 77 FR 9717.

<sup>5</sup> In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

<sup>6</sup> 15 U.S.C. 78f(b)(5).

<sup>195</sup> 15 U.S.C. 78s(b)(2).

<sup>196</sup> See Regulatory Notice 09-55.

<sup>197</sup> 15 U.S.C. 78s(b)(2).

<sup>198</sup> 17 CFR 200.30-3(a)(12).

last priority. The Commission believes that, as a result of this flexibility, there may be increased usage of AIM auctions and the mechanism may attract new participants, thereby helping to further competition and to enhance the possibility of price improvement on behalf of customers.<sup>7</sup>

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,<sup>8</sup> that the proposed rule change (SR-C2-2012-006) be, and it hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>9</sup>

**Kevin M. O'Neill,**  
Deputy Secretary.

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-66676; File No. SR-OCC-2012-03]

### Self-Regulatory Organizations; The Options Clearing Corporation; Notice of Filing of Proposed Rule Change to More Closely Align OCC's By-Laws and Rules with Regulatory Requirements Related to "Statutory Disqualifications"

March 29, 2012.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")<sup>1</sup> and Rule 19b-4 thereunder<sup>2</sup> notice is hereby given that on March 15, 2012, The Options Clearing Corporation ("OCC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared primarily by OCC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

<sup>7</sup> The Commission notes that Chapter V, Section 18(f)(v) of the Rules of the Boston Exchange Group, LLC, "The Price Improvement Period" ("PIP"), includes a similar provision that permits an options participant initiating a PIP auction to designate a lower amount than the 40% to which it is otherwise entitled upon the conclusion of the PIP auction. The Commission also recently approved a similar provision under Rule 6.74A of the Chicago Board of Options Exchange, Incorporated, with respect to its AIM auction. See Securities Exchange Act Release No. 66375 (February 10, 2012), 77 FR 9274 (February 16, 2012) (SR-CBOE-2011-117).

<sup>8</sup> 15 U.S.C. 78s(b)(2).

<sup>9</sup> 17 CFR 200.30-3(a)(12).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change would more closely align OCC's By-Laws and Rules with applicable regulatory requirements related to "statutory disqualifications" under the Act in order to reduce the overall administrative burden on OCC associated with addressing the statutory disqualification of OCC clearing members ("Clearing Members") and applicants for clearing membership ("Applicants") while giving guidance to Clearing Members and Applicants as to OCC's policies with respect to statutory disqualifications.

### II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, OCC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. OCC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of these statements.<sup>3</sup>

#### (A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of this proposed rule change is to more closely align OCC's By-Laws and Rules with applicable regulatory requirements related to "statutory disqualifications" under the Act in order to reduce the overall administrative burden on OCC associated with addressing the statutory disqualification of Clearing Members and Applicants while giving guidance to Clearing Members and Applicants as to OCC's policies with respect to statutory disqualifications. OCC is also proposing to amend its "Fitness Standards for Directors, Clearing Members and Others" ("Fitness Standards") to bring such standards into conformity with the proposed amendments to OCC's By-Laws. The Fitness Standards were submitted to the Commission in SR-OCC-2011-12 and approved by the Commission on October 27, 2011.<sup>4</sup>

<sup>3</sup> The Commission has modified the text of the summaries prepared by OCC.

<sup>4</sup> Securities Exchange Act Release No. 34-65648 (October 27, 2011), 76 FR 68236 (November 3, 2011).

### Background

Persons who have engaged in certain types of misconduct are subject to "statutory disqualification," as defined by Section 3(a)(39) of the Act, and must undergo a review by the Commission under Rule 19h-1 of the Act in order to enter or continue in membership in a self-regulatory organization ("SRO"). Section 17A(b)(4)(A) of the Act provides that a registered clearing agency may, and in cases in which the Commission so orders must, deny participation to any person subject to a statutory disqualification. This provision further requires a registered clearing agency to provide the Commission with 30 days' notice before admitting a statutorily disqualified person to clearing membership. Rule 19h-1 of the Act implements these statutory provisions by requiring notice to the Commission if a registered clearing agency proposes either to admit to membership or to continue as a member a person subject to a statutory disqualification. Notably, unlike in the case of a national securities exchange or registered securities association, the rule does not require a registered clearing agency to file such a notice with respect to statutory disqualifications of associated persons of a Member or Applicant. A registered clearing agency is required to file such a notice only when the Member or Applicant itself is subject to the disqualification.

Article V of OCC's By-Laws establishes the qualifications required of Clearing Members and sets forth the procedures for admitting persons to clearing membership, including those that are or become subject to a statutory disqualification. Currently, Interpretation and Policy .03 of Article V, Section 1 of OCC's By-Laws provides that the Membership/Risk Committee ("Committee") will not recommend the approval of an application for membership if the Applicant or an associated person is subject to a statutory disqualification unless the Committee makes a finding that "special circumstances" exist warranting a waiver of the statutory disqualification. The requirements of this By-Law are more stringent than those applied to registered clearing agencies by the Act or Commission rules because they require the Committee to (i) make specific findings of "special circumstances" before recommending membership approval and (ii) address statutory disqualifications of associated persons. The By-Laws therefore impose additional administrative burdens on OCC that are not required under any