

**Register** or within such longer period (i) As the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission will:

A. By order approve or disapprove such proposed rule change, or

B. Institute proceedings to determine whether the proposed rule change should be disapproved.

#### IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether 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 e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-BX-2011-034 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-BX-2011-034. This file number should be included on the subject line if e-mail 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 BX. 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 publicly available. All submissions should refer to File Number SR-BX-2011-034 and should be submitted on or before July 20, 2011.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>13</sup>

**Cathy H. Ahn,**

*Deputy Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-64727; File No. SR-C2-2011-012]

### Self-Regulatory Organizations; C2 Options Exchange, Incorporated; Order Approving Proposed Rule Change, as Modified by Amendment No. 1, To Reduce the Minimum Size of the Nominating and Governance Committee

June 22, 2011.

#### I. Introduction

On April 27, 2011, C2 Options Exchange, Incorporated ("C2" or "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 reduce the minimum size of the Nominating and Governance Committee ("NGC") from seven to five. On May 18, 2011, the Exchange filed Amendment No. 1 to the proposed rule change.<sup>3</sup> The proposed rule change was published for comment in the **Federal Register** on May 10, 2011.<sup>4</sup> The Commission received no comment letters regarding the proposal. This order approves the proposed rule change, as modified by Amendment No. 1.

<sup>13</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.

<sup>3</sup> At the time C2 submitted the original proposed rule change, it had not yet obtained formal approval from its Board of Directors for the specific Bylaw changes set forth in this proposed rule change. C2 stated that once that approval was obtained, it would file a technical amendment to its proposed rule change to reflect that approval. In Amendment No. 1, the Exchange notes that the C2 Board of Directors approved the specific Bylaw changes set forth in SR-C2-2011-012 on May 17, 2011 and stated that no further action was necessary in connection with its proposal. Because Amendment No. 1 is technical in nature, the Commission is not required to publish it for public comment.

<sup>4</sup> See Securities Exchange Act Release No. 64394 (May 4, 2011), 76 FR 27112 ("Notice").

## II. Description of the Proposal

C2 is proposing to reduce the minimum size of its NGC from seven to five directors. Section 4.4 of the Second Amended and Restated Bylaws of C2 ("Bylaws") currently provides, in pertinent part, that the NGC shall consist of at least seven directors, including both Industry and Non-Industry Directors; that a majority of the directors on the Committee shall be Non-Industry Directors; and that the exact number of members on the Committee shall be determined from time to time by C2's Board of Directors (the "Board" or "C2 Board"). Pursuant to the proposed rule change, Section 4.4 of the Bylaws would be amended to provide that the NGC shall consist of at least five directors. The other provisions of Section 4.4 of the Bylaws would remain unchanged.<sup>5</sup>

In outlining the purpose behind its proposal, the Exchange noted that the size of its Board declined from its initial size of twenty-three to nineteen directors in 2009 and again to sixteen directors in 2011.<sup>6</sup> As the size of its Board has declined, the Exchange noted that it has become more challenging to populate larger-size Board committees since there are fewer directors to serve on a multitude of committees.<sup>7</sup> The Exchange's proposal to reduce the minimum size of the NGC is intended to help address this issue.

## III. Discussion

After careful review of the proposal, the Commission finds that the proposed rule change, as modified by Amendment No. 1, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.<sup>8</sup> In particular, the Commission finds that the proposal is consistent with Section 6(b)(1) of the Act,<sup>9</sup> which requires a national securities exchange to be so organized and have the capacity to carry out the purposes of the Act and to comply, and to enforce compliance by its members and persons associated with its members, with the provisions of the Act, as well as Section 6(b)(5) of the

<sup>5</sup> Additionally, the title of the Bylaws would be changed to the Third Amended and Restated Bylaws of C2.

<sup>6</sup> Section 3.1 of the Bylaws provides that the C2 Board shall consist of not less than eleven and not more than twenty-three directors, with the exact size determined by the Board.

<sup>7</sup> See Notice, *supra* note 4, at 27112.

<sup>8</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>9</sup> 15 U.S.C. 78f(b)(1).

Act,<sup>10</sup> in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to, and perfect the mechanism of a free and open market, and, in general, to protect investors and the public interest. While the Exchange has proposed to reduce the minimum size of the NGC, it has not proposed any other changes to the composition of the committee or the scope or exercise of its responsibilities. In its filing, the Exchange affirmatively represented that the NGC “will continue to be able to appropriately perform its functions” despite the reduction in minimum required size.<sup>11</sup> The Commission further finds that the proposal, as modified by Amendment No. 1, is consistent with the requirements of Section 6(b)(3) of the Act,<sup>12</sup> which requires that one or more directors of an exchange shall be representative of issuers and investors and not be associated with a member of the exchange, broker or dealer.

In particular, the Commission notes that the Exchange will continue to provide for the fair representation of C2 Trading Permit Holders in the selection of directors and the administration of the Exchange consistent with Section 6(b)(3) of the Act<sup>13</sup> following this rule change. Specifically, the C2 Bylaws will continue to require that at least thirty percent of the directors on the C2 Board be Industry Directors and that at least twenty percent of C2’s directors be Representative Directors elected by permit holders.<sup>14</sup> Further, the NGC will continue to include both Industry and Non-Industry Directors (including a majority of Non-Industry Directors) and have an Industry-Director Subcommittee that is composed of all of the Industry Directors serving on the Committee. Representative Directors will continue to be nominated (or otherwise selected through a petition process) by the Industry-Director Subcommittee. Additionally, C2 Trading Permit Holders will continue to be able to nominate alternative Representative Director candidates to those nominated by the Industry Director Subcommittee, in which case a Run-off Election will be held in which C2’s Trading Permit Holders vote to determine which candidates will be elected to the C2 Board to serve as Representative Directors. Furthermore, the Commission notes that the Exchange’s proposal to

reduce the minimum size of its NGC is consistent with a proposal that the Commission previously approved for another self-regulatory organization in which that self-regulatory organization reduced the minimum size of its nominating and governance committee from six to four members.<sup>15</sup>

Finally, the Exchange has represented that, although the proposed rule change would permit the Exchange to appoint a five-person NGC and the Exchange may elect to do so in the future, it is the current intention of the Exchange to appoint a six-person NGC.<sup>16</sup>

#### IV. Conclusion

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Act,<sup>17</sup> that the proposed rule change (SR–C2–2011–012), as modified by Amendment No. 1, be, and hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>18</sup>

**Cathy H. Ahn,**

*Deputy Secretary.*

[FR Doc. 2011–16243 Filed 6–28–11; 8:45 am]

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–64729; File No. SR–NYSE–2011–24]

### Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending NYSE Rule 17 To Codify Inbound Routing Functions Performed by Its Affiliate Broker-Dealer, Archipelago Securities LLC

June 23, 2011.

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 June 16, 2011, New York Stock Exchange LLC (the “Exchange” or “NYSE”) filed with the Securities and Exchange Commission (the “Commission”) the proposed rule change as described in Items I and II below, which Items have

<sup>15</sup> See Securities Exchange Act Release No. 54494 (September 25, 2006), 71 FR 58023 (October 2, 2006) (SR–CHX–2006–23) (approving reduction of the Chicago Stock Exchange’s Nominating and Governance Committee from six directors to four directors). See also Article II, Section 3 of the Bylaws of the Chicago Stock Exchange, Inc. (providing for a Nominating and Governance Committee with four directors).

<sup>16</sup> See Notice, *supra* note 4, at 27112.

<sup>17</sup> 15 U.S.C. 78s(b)(2).

<sup>18</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.

been prepared by NYSE. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

The Exchange proposes to amend NYSE Rule 17 to codify inbound routing functions performed by its affiliate broker-dealer, Archipelago Securities LLC (“Arca Securities”). The text of the proposed rule change is available at the Exchange’s principal office, at <http://www.nyse.com>, at the Commission’s Public Reference Room, and at the Commission’s Web site at <http://www.sec.gov>.

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

In its filing with the Commission, the self-regulatory organization 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 those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

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

###### 1. Purpose

The Exchange proposes to amend NYSE Rule 17 to codify inbound routing functions performed by its affiliate broker-dealer, Arca Securities, which have previously been approved by the Commission.<sup>3</sup>

##### Background—Arca Securities Functions as Routing Broker

Arca Securities currently is the primary outbound and inbound routing broker for NYSE. The outbound routing function for NYSE is governed by NYSE Rules 13 and 17.<sup>4</sup> These rules permit NYSE to utilize Arca Securities to route orders to an away market center for execution whenever such routing is

<sup>3</sup> The Exchange’s affiliates, NYSE Amex LLC (“NYSE Amex”) and NYSE Arca, Inc. (“NYSE Arca”), are proposing substantially similar rule changes. See SR–NYSEAmex–2011–39 and SR–NYSEArca–2011–38.

<sup>4</sup> See Securities Exchange Act Release No. 55590 (April 5, 2007), 72 FR 18707 (April 13, 2007) (SR–NYSE–2007–29).

<sup>10</sup> 15 U.S.C. 78f(b)(5).

<sup>11</sup> See Notice, *supra* note 4, at 27112.

<sup>12</sup> 15 U.S.C. 78f(b)(3).

<sup>13</sup> 15 U.S.C. 78f(b)(3).

<sup>14</sup> See Section 3.2 of the C2 Bylaws (defining “Representative Director”).