

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-69420; File No. SR-C2-2013-018)

April 19, 2013

Self-Regulatory Organizations; C2 Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Amending C2 Rules Governing Letters of Guarantee and Authorization

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the “Act”),¹ and Rule 19b-4 thereunder,² notice is hereby given that, on April 11, 2013, C2 Options Exchange, Incorporated (the “Exchange” or “C2”) filed with the Securities and Exchange Commission (the “Commission”) the proposed rule change as described in Items I, II and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.³

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

The Exchange proposes to amend C2 rules governing letters of guarantee and authorization. The text of the proposed rule change is available on the Exchange’s website (<http://www.c2exchange.com/Legal/>) and at the Commission’s Public Reference Room.

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 Exchange 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

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See also Securities Exchange Act Release No. 68879 (February 8, 2013), 78 FR 11249 (February 15, 2013) (CBOE-2012-124) (order approving a proposed rule change to amend various CBOE rules governing letters of guarantee and authorization).

Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

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

1. Purpose

Permit Holders that have trading functions on the Exchange, are required to submit a letter of guarantee or authorization⁴ for that Permit Holder’s trading activities on the Exchange from a Clearing Participant.⁵ The purpose of this proposal is to amend various Exchange rules governing letters of guarantee and authorization to:

- Give the Exchange the ability to prevent access to its marketplace if a Permit Holder does not have an effective letter of guarantee or authorization on file with the Exchange;
- Provide that any written revocation of a letter of guarantee or authorization will be given effect as quickly as the Exchange can process it;
- Give the Exchange the ability to take any action necessary to give effect to actions by the Clearing Corporation⁶, such as restricting the activities of a Clearing Participant or suspending a Clearing Participant; and

⁴ A letter of guarantee is typically provided to C2 by a Clearing Participant guaranteeing any trades made by one of its TPH customers, e.g., a Market-Maker. The Commission notes that “TPH” refers to “Trading Permit Holder,” which is defined in CBOE Bylaws Article I, Section 1.1(f) (the term “Trading Permit Holder” means any “individual, corporation, partnership, limited liability company or other entity authorized by the Rules that holds a Trading Permit...”).

⁵ C2 Rule 1.1 defines “Clearing Participant” as a “Permit Holder that has been admitted to membership in the Clearing Corporation pursuant to the provisions of the Rules of the Clearing Corporation.”

⁶ The Options Clearing Corporation (“OCC”) is currently the only Clearing Corporation of C2.

- Automatically terminate the trading permit(s) and Permit Holder status of a Permit Holder if the Permit Holder does not have a required letter of guarantee or authorization in place for ninety consecutive days.

The changes proposed in this filing are intended to clarify and codify existing and well-established principles regarding activities permitted by Clearing Participants. While elementary, the Exchange believes that it is important to specifically provide in its rules that a Permit Holder must have a valid letter of guarantee or authorization in order to engage in trading activities and, if one is not in place, the Exchange is permitted to prevent connectivity and access to the Exchange by that Permit Holder. Similarly, the definition of a Clearing Participant requires that a Permit Holder be admitted to membership in the OCC.⁷ If the OCC restricts the activities of a Clearing Participant or terminates a Clearing Participant's membership in the OCC, that Permit Holder no longer meets the definition of a "Clearing Participant." As a result, the Exchange believes it is appropriate to codify its ability to take action, as necessary, to give effect to any restriction or suspension issued by the OCC. Finally, the Exchange is proposing to provide that if a Permit Holder does not have a required letter of guarantee or authorization in place for ninety consecutive days, the Permit Holder's status and trading permit(s) will automatically terminate (in addition to previous action by the Exchange not to allow the Permit Holder to have access and connectivity to the Exchange without a required guarantee which would occur following the revocation of a guarantee). If a Permit Holder no longer has a valid letter of guarantee and authorization, that Permit Holder presents risk to the marketplace and the Exchange believes it is

⁷ See C2 Rule 1.1.

appropriate to terminate trading, access and connectivity and then Permit Holder status in this situation.

The Exchange is proposing to amend C2 Rule 3.10 so that it will govern letters of guarantee and authorization (currently Rule 3.10 is limited to letters of guarantee). The Exchange is proposing to add new paragraphs (b) through (g) to Rule 3.10 to expressly provide the Exchange with remedial powers in the event the OCC restricts or suspends a Clearing Participant. The Exchange is also proposing to add new paragraph (h) to Rule 3.10 to govern the termination of Permit Holder status when a Permit Holder is without a required letter of guarantee or authorization for a ninety consecutive day period.

First, the Exchange is proposing to provide that a Permit Holder may not engage in any trading activities on the Exchange if an effective letter of guarantee or authorization required to engage in those activities is not on file with the Exchange. If a Permit Holder does not have an effective letter of guarantee or authorization on file with the Exchange, the Exchange will be permitted to prevent access and connectivity to the Exchange by that Permit Holder.

Second, the Exchange is proposing to provide that letters of guarantee and authorization filed with the Exchange will remain in effect until a written notice of revocation has been filed with the Permit Holder Department and the revocation becomes effective or the letter of guarantee or authorization otherwise becomes invalid pursuant to Exchange rules. A written notice of revocation will become effective as soon as the Exchange is able to process the revocation. A revocation will in no way relieve a Clearing Participant of responsibility for transactions guaranteed prior to the effectiveness of the revocation.

Third, the Exchange is proposing to provide that if the OCC restricts the activities of a Clearing Participant or suspends a Clearing Participant as a Clearing Member of the OCC, the

Exchange will be permitted to take action as necessary to give effect to the restriction or suspension. For example, if the OCC restricts transactions cleared by a Clearing Participant to “closing only” transactions, the Exchange will be similarly able to restrict transactions on the Exchange for clearance by that Clearing Participant as a Clearing Member of the OCC to “closing only” transactions. Similarly, if the OCC suspends a Clearing Participant, the Exchange will be similarly able to prevent access and connectivity to the Exchange by the suspended Clearing Participant.

Fourth, the Exchange is proposing to provide that if a Clearing Participant’s status as a Clearing Member of the OCC is terminated or if a Clearing Participant’s status as a C2 Permit Holder is terminated, all letters of guarantee and authorization on file with the Exchange from that Clearing Participant will no longer be valid effective as soon as the Exchange is able to process the invalidation of these letters of guarantee and authorization.

Fifth, the Exchange is proposing to provide that if a Clearing Participant has been suspended as a Clearing Member of the OCC or as a C2 Permit Holder, all existing letters of guarantee and authorization from that Clearing Participant will be invalid during the period of the suspension effective as soon as the Exchange is able to process the invalidation of those letters of guarantee and authorization.

Sixth, the Exchange is proposing to provide that the invalidation of a letter of guarantee or authorization will in no way relieve the Clearing Participant that issued the letter of guarantee or authorization of responsibility from transactions guaranteed prior to the effectiveness of the invalidation.

Seventh, the Exchange is proposing to provide that if a Permit Holder does not have a required letter of guarantee or authorization for period of ninety consecutive days, the Permit

Holder's trading permit(s) and status as a Permit Holder shall automatically be terminated.

A revocation of a letter of guarantee or authorization will not occur immediately upon receipt of the revocation by the Permit Holder Department because it takes time for the Exchange to process and effectuate the revocation. For example, there are changes that must be input into the Exchange's systems in order to systematize and effectuate a revocation. Also Exchange staff may be occupied with other matters when a revocation is received and may not immediately be able to process the revocation. Accordingly, the revocation and invalidation of letters of guarantee and authorization under proposed Rules 3.10(c) and 3.10(f) shall become effective as soon as the Exchange is able to process the revocation or invalidation. The Exchange will endeavor to process revocations and invalidations in a timely manner under the circumstances but makes no guarantees in this respect.

If a Permit Holder has a letter of guarantee or authorization that is revoked or invalidated, that Permit Holder's orders and quotes will be rejected after the revocation or invalidation after the revocation or invalidation becomes effective unless and until the Trading Permit has another effective letter of guarantee or authorization in place and on file with the Exchange. This means that a Trading Permit without an effective letter of guarantee or authorization will not be able to continue to trade on the Exchange.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the "Act") and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.⁸ Specifically, the

⁸ 15 U.S.C. 78f(b).

Exchange believes the proposed rule change is consistent with the Section 6(b)(5)⁹ requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitation transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)¹⁰ requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

In particular, expressly permitting the Exchange to take action as needed to give effect to a restriction or suspension issued by the OCC will protect the integrity of the Exchange's marketplace by limiting trading to only those Permit Holders with effective and unrestricted letters of guarantee and authorization. A key purpose for having Clearing Participants is to reduce the risk of market participants failing to honor executed trades. By requiring that Permit Holders have an effective and unrestricted letters of guarantee, the Exchange is advancing this purpose. Additionally, the Exchange believes that the proposed rule change is designed to remove impediments to and to perfect the mechanism for a free and open market and a national market system, and, in general, to protect investors and the public interest in that it will allow the Exchange to take actions to give effect to restrictions or suspensions issued by the OCC. The ability to take action is designed to prevent the execution of trades on the Exchange which may not be able to be ultimately cleared and settled if access to the Exchange's marketplace is not restricted in tandem with a restriction or suspension issued by the OCC. Also, preventing access

⁹ 15 U.S.C. 78f(b)(5).

¹⁰ Id.

and connectivity to the Exchange by a Permit Holder if that Permit Holder's Clearing Participant revokes the Permit Holder's letter of guarantee or authorization is beneficial to the marketplace and serves to protect investors since it prevents trading by a Permit Holder without a financial guarantee for that trading. If a Permit Holder no longer has a valid letter of guarantee or authorization, that Permit Holder presents risk to the marketplace and the Exchange believes it is appropriate to prevent access and connectivity to the Exchange by that Permit Holder in this situation. The Exchange also believes that having the ability to terminate the Permit Holder status and trading permit(s) of a Permit Holder that does not have a required letter of guarantee or authorization for ninety consecutive days is desirable since it allows the Exchange to appropriately manage and control access to its marketplace by limiting access only to those with a financial guarantee which thereby serves to protect investors by ensuring that counterparties to trades have such a guarantee.

The Exchange believes the proposed rule change is also consistent with the Section 6(b)(7)¹¹ requirements that the rules of an exchange provide a fair procedure for the denial of membership to any person seeking membership therein and the prohibition or limitation by an exchange of any person with respect to access to services offered by the exchange.

Specifically, with respect to the proposed automatic termination provision when a Permit Holder does not have a required letter of guarantee or authorization for ninety consecutive days, the Exchange believes that that provision establishes a fair procedure because it strikes the appropriate balance between giving a deficient Permit Holder an adequate amount of time to cure the deficiency of not having a required letter of guarantee or authorization and allowing the Exchange to appropriately limit access to its marketplace only to those Permit Holders with a

¹¹ 15 U.S.C. 78f(b)(7).

financial guarantee. Furthermore, the automatic termination provision does not prohibit or limit a previously terminated Permit Holder from seeking to gain access again to the Exchange by applying to become a Permit Holder subsequent to the termination if the Permit Holder is able to again acquire the required letter of guarantee and authorization.

B. Self-Regulatory Organization's Statement on Burden on Competition

C2 does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange does not believe the proposed rule change will pose any burden on intramarket competition because it is applied to all TPHs equally as all will have the same requirements with respect to letters of guarantee. Additionally, the Exchange does not believe the proposed rule change will pose any burden on intermarket competition because the proposed rule change merely allows the Exchange to clarify and codify existing and well-established principles regarding activities permitted by Clearing Participants. Therefore, there would be no further impact on intermarket competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not:

- A. significantly affect the protection of investors or the public interest;
- B. impose any significant burden on competition; and
- C. become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate,

it has become effective pursuant to Section 19(b)(3)(A) of the Act¹² and Rule 19b-4(f)(6)¹³ thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission will institute proceedings to determine whether the proposed rule change should be approved or 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. Please include File Number SR-C2-2013-018 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-C2-2013-018. 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 website (<http://www.sec.gov/rules/sro.shtml>). Copies

¹² 15 U.S.C. 78s(b)(3)(A).

¹³ 17 CFR 240.19b-4(f)(6).

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 website 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 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. 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-C2-2013-018 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁴

Elizabeth M. Murphy
Secretary

¹⁴ 17 CFR 200.30-3(a)(12).