

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-71964; File No. 4-536)

April 17, 2014

Program for Allocation of Regulatory Responsibilities Pursuant to Rule 17d-2; Notice of Filing of Proposed Amended Plan for the Allocation of Regulatory Responsibilities Between the Financial Industry Regulatory Authority, Inc., the Chicago Board Options Exchange, Incorporated, and C2 Options Exchange, Incorporated

Pursuant to Section 17(d) of the Securities Exchange Act of 1934 (“Act”),<sup>1</sup> and Rule 17d-2 thereunder,<sup>2</sup> notice is hereby given that on March 24, 2014, the Financial Industry Regulatory Authority, Inc. (“FINRA”), the Chicago Board Options Exchange, Incorporated (“CBOE”), and C2 Options Exchange, Incorporated (“C2”) (collectively, the “Parties”) filed with the Securities and Exchange Commission (“Commission” or “SEC”) a plan for the allocation of regulatory responsibilities, dated March 21, 2014 (“17d-2 Plan” or the “Plan”). This Agreement amends and restates the agreement entered into between NASD (n/k/a FINRA) and CBOE on April 4, 2007, entitled “Agreement between NASD and CBOE Pursuant to Rule 17d-2 under the Securities Exchange Act of 1934,” and any subsequent amendments thereafter. The Commission is publishing this notice to solicit comments on the 17d-2 Plan from interested persons.

I. Introduction

Section 19(g)(1) of the Act,<sup>3</sup> among other things, requires every self-regulatory organization (“SRO”) registered as either a national securities exchange or national securities association to examine for, and enforce compliance by, its members and persons associated with its members with the Act, the rules and regulations thereunder,

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<sup>1</sup> 15 U.S.C. 78q(d).

<sup>2</sup> 17 CFR 240.17d-2.

<sup>3</sup> 15 U.S.C. 78s(g)(1).

and the SRO's own rules, unless the SRO is relieved of this responsibility pursuant to Section 17(d) or Section 19(g)(2) of the Act.<sup>4</sup> Without this relief, the statutory obligation of each individual SRO could result in a pattern of multiple examinations of broker-dealers that maintain memberships in more than one SRO ("common members"). Such regulatory duplication would add unnecessary expenses for common members and their SROs.

Section 17(d)(1) of the Act<sup>5</sup> was intended, in part, to eliminate unnecessary multiple examinations and regulatory duplication.<sup>6</sup> With respect to a common member, Section 17(d)(1) authorizes the Commission, by rule or order, to relieve an SRO of the responsibility to receive regulatory reports, to examine for and enforce compliance with applicable statutes, rules, and regulations, or to perform other specified regulatory functions.

To implement Section 17(d)(1), the Commission adopted two rules: Rule 17d-1 and Rule 17d-2 under the Act.<sup>7</sup> Rule 17d-1 authorizes the Commission to name a single SRO as the designated examining authority ("DEA") to examine common members for compliance with the financial responsibility requirements imposed by the Act, or by Commission or SRO rules.<sup>8</sup> When an SRO has been named as a common member's DEA, all other SROs to which the common member belongs are relieved of the

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<sup>4</sup> 15 U.S.C. 78q(d) and 15 U.S.C. 78s(g)(2), respectively.

<sup>5</sup> 15 U.S.C. 78q(d)(1).

<sup>6</sup> See Securities Act Amendments of 1975, Report of the Senate Committee on Banking, Housing, and Urban Affairs to Accompany S. 249, S. Rep. No. 94-75, 94th Cong., 1st Session 32 (1975).

<sup>7</sup> 17 CFR 240.17d-1 and 17 CFR 240.17d-2, respectively.

<sup>8</sup> See Securities Exchange Act Release No. 12352 (April 20, 1976), 41 FR 18808 (May 7, 1976).

responsibility to examine the firm for compliance with the applicable financial responsibility rules. On its face, Rule 17d-1 deals only with an SRO's obligations to enforce member compliance with financial responsibility requirements. Rule 17d-1 does not relieve an SRO from its obligation to examine a common member for compliance with its own rules and provisions of the federal securities laws governing matters other than financial responsibility, including sales practices and trading activities and practices.

To address regulatory duplication in these and other areas, the Commission adopted Rule 17d-2 under the Act.<sup>9</sup> Rule 17d-2 permits SROs to propose joint plans for the allocation of regulatory responsibilities with respect to their common members. Under paragraph (c) of Rule 17d-2, the Commission may declare such a plan effective if, after providing for appropriate notice and comment, it determines that the plan is necessary or appropriate in the public interest and for the protection of investors; to foster cooperation and coordination among the SROs; to remove impediments to, and foster the development of, a national market system and a national clearance and settlement system; and is in conformity with the factors set forth in Section 17(d) of the Act. Commission approval of a plan filed pursuant to Rule 17d-2 relieves an SRO of those regulatory responsibilities allocated by the plan to another SRO.

## II. The Plan

On May 14, 2007, the Commission declared effective the Plan entered into between NASD (n/k/a FINRA) and CBOE for allocating regulatory responsibility

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<sup>9</sup> See Securities Exchange Act Release No. 12935 (October 28, 1976), 41 FR 49091 (November 8, 1976).

pursuant to Rule 17d-2.<sup>10</sup> The Plan is intended to reduce regulatory duplication for firms that are common members of both CBOE and FINRA. The plan reduces regulatory duplication for firms that are members of CBOE and FINRA by allocating regulatory responsibility with respect to certain applicable laws, rules, and regulations, including responsibility for CBOE rules applicable to the CBOE Stock Exchange, LLC (“CBSX”), an equity exchange facility operated by CBOE. Included in the Plan is an exhibit that lists every CBOE rule for which FINRA bears responsibility under the Plan for overseeing and enforcing with respect to CBOE members that are also members of FINRA and the associated persons therewith.

### III. Proposed Amendment to Plan

On March 24, 2014, the parties submitted a proposed amendment to the Plan. The primary purpose of the amendment is to add C2 as a Participant to the Plan. The text of the proposed amended 17d-2 plan is as follows (additions are underlined; deletions are [bracketed]):

AGREEMENT [BETWEEN NASD AND] AMONG FINANCIAL INDUSTRY REGULATORY AUTHORITY, INC., CHICAGO BOARD OPTIONS EXCHANGE, INCORPORATED, AND C2 OPTIONS EXCHANGE, INCORPORATED PURSUANT TO RULE 17d-2 UNDER THE SECURITIES EXCHANGE ACT OF 1934

This Agreement, by and [between the National Association of Securities Dealers]among Financial Industry Regulatory Authority, Inc. [(“NASD”) and] (“FINRA”), the Chicago Board Options Exchange, Incorporated (“CBOE”), and C2 Options Exchange, Incorporated (“C2”) is made this 21<sup>st</sup> [4<sup>th</sup>] day of [April, 2007] March, 2014 (the “Agreement”), pursuant to Section 17(d) of the Securities Exchange

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<sup>10</sup> See Securities Exchange Act Release No. 55755 (May 14, 2007), 72 FR 28087 (May 18, 2007).

Act of 1934 (the “Exchange Act”) and Rule 17d-2 thereunder which permits agreements between self-regulatory organizations to allocate regulatory responsibility to eliminate regulatory duplication. [NASD]FINRA, [and] CBOE and C2 may be referred to individually as a “party” and together as the “parties.”

This Agreement amends and restates the agreement entered into between NASD (n/k/a FINRA) and CBOE on April 4, 2007, entitled “Agreement between NASD and CBOE Pursuant to Rule 17d-2 under the Securities Exchange Act of 1934,” and any subsequent amendments thereafter.

WHEREAS, [NASD and CBOE] the parties desire to reduce duplication in the examination of their [Dual]Common Members (as defined herein) and in the filing and processing of certain registration and membership records as it relates to the CBOE options exchange, C2 options exchange and the CBOE equity exchange facility operated by CBOE Stock Exchange, LLC[;] (“CBSX”); and

WHEREAS, [NASD and CBOE]the parties desire to execute an agreement covering such subjects pursuant to the provisions of Rule 17d-2 under the Exchange Act and to file such agreement with the Securities and Exchange Commission (the “SEC” or “Commission”) for its approval.

NOW, THEREFORE, in consideration of the mutual covenants contained hereinafter, [NASD and CBOE]the parties hereby agree as follows:

**1. Definitions.** Unless otherwise defined in this Agreement or the context otherwise requires, the terms used in this Agreement shall have the same meaning as they have under the Exchange Act and the rules and regulations thereunder. As used in this Agreement, the following terms shall have the following meanings:

(a) [“CBOE Rules” or “NASD Rules”] shall mean the rules of the CBOE or NASD, respectively, as the rules] “Rule” of an “exchange” or an “association” shall have the meaning [are] defined in Exchange Act Section 3(a)(27).

(b) “Common Rules” shall mean the CBOE Rules and C2 Rules that are substantially similar to the applicable [NASD] FINRA Rules in that examination for compliance with such [rules] Rules would not require [NASD] FINRA to develop one or more new examination standards, modules, procedures, or criteria in order to analyze the application of the rule, or a [Dual] Common Member’s activity, conduct, or output in relation to such rule; provided, however, Common Rules shall not include the application of SEC, CBOE, C2 or FINRA Rules as they pertain to violations of insider trading activities, which is covered by a separate 17d-2 Agreement by and among the BATS Exchange, Inc., BATS-Y Exchange, Inc., CBOE, Chicago Stock Exchange, Inc., EDGA Exchange, Inc., EDGX Exchange, Inc., FINRA, NASDAQ OMX BX, Inc., NASDAQ OMX PHLX LLC, The NASDAQ Stock Market LLC, National Stock Exchange, Inc., New York Stock Exchange, LLC, NYSE Amex LLC, and NYSE Arca Inc., effective December 16, 2011, as may be amended from time to time.

(c) [“Dual Members”]“Common Members” shall mean [those CBOE] members [that are also members of NASD and the associated persons therewith]of FINRA and at least one of CBOE or C2.

(d) “Effective Date” shall [have the meaning set forth in paragraph 14]be the date this Agreement is approved by the Commission.

(e) “Enforcement Responsibilities” shall mean the conduct of appropriate proceedings, in accordance with [the NASD]FINRA’s Code of Procedure (the Rule 9000 Series) and other applicable [NASD]FINRA procedural [rules]Rules, to determine whether violations of pertinent laws, rules or regulations have occurred, and if such violations are deemed to have occurred, the imposition of appropriate sanctions as specified under [the NASD’s]FINRA’s Code of Procedure and sanctions guidelines.

(f) “Regulatory Responsibilities” shall mean the examination responsibilities and Enforcement Responsibilities relating to compliance by the [Dual]Common Members with the Common Rules and the provisions of the Exchange Act and the rules and regulations thereunder, and other applicable laws, rules and regulations, each as set forth on Exhibit 1 attached hereto.

**2. Regulatory and Enforcement Responsibilities.** [NASD]FINRA shall assume Regulatory Responsibilities and Enforcement Responsibilities for [Dual]Common Members. Attached as Exhibit 1 to this Agreement and made part hereof, CBOE and C2 furnished [NASD]FINRA with a current list of Common Rules and certified to [NASD]FINRA that such [rules]Rules are substantially similar to the corresponding [NASD rule]FINRA Rule (the “Certification”). [NASD]FINRA hereby agrees that the [rules]Rules listed in the Certification are Common Rules as defined in this Agreement. Each year following the Effective Date of this Agreement, or more frequently if required by changes in [either the rules]the Rules of the parties, CBOE [or NASD, CBOE]and C2 shall submit an updated list of Common Rules to [NASD]FINRA for review which shall add CBOE [rules]or C2 Rules not included in the current list of

Common Rules that qualify as Common Rules as defined in this Agreement; delete CBOE [rules]or C2 Rules included in the current list of Common Rules that no longer qualify as Common Rules as defined in this Agreement; and confirm that the remaining [rules]Rules on the current list of Common Rules continue to be CBOE [rules]or C2 Rules that qualify as Common Rules as defined in this Agreement. Within 30 days of receipt of such updated list, [NASD]FINRA shall confirm in writing whether the [rules]Rules listed in any updated list are Common Rules as defined in this Agreement. Notwithstanding anything herein to the contrary, it is explicitly understood that the term “Regulatory Responsibilities” does not include, and CBOE and C2 shall retain full responsibility for (unless otherwise addressed by separate agreement or rule) the following, (collectively, the “Retained Responsibilities”):

- (a) surveillance and enforcement with respect to trading activities or practices involving CBOE’s or C2’s own marketplace, including without limitation CBOE’s [rules]or C2’s Rules relating to the rights and obligations of market makers;
- (b) registration pursuant to [its]their applicable [rules]Rules of associated persons (i.e., registration rules that are not Common Rules);
- (c) discharge of [its]their duties and obligations as a Designated Examining Authority pursuant to Rule 17d-1 under the Exchange Act; and
- (d) any CBOE Rules and C2 Rules that are not Common Rules.

**3. [Dual]Common Members.** Prior to the Effective Date, CBOE and C2 shall furnish [NASD]FINRA with a current list of [Dual]Common Members, which shall be updated no less frequently than once [each quarter]every six months.

**4. No Charge.** There shall be no charge to CBOE and C2 by [NASD]FINRA for performing the Regulatory Responsibilities and Enforcement Responsibilities under this Agreement except as hereinafter provided. [NASD]FINRA shall provide CBOE and C2 with ninety (90) days advance written notice in the event [NASD]FINRA decides to impose any charges to CBOE and C2 for performing the Regulatory Responsibilities under this Agreement. If [NASD]FINRA determines to impose a charge, CBOE and C2 shall have the right at the time of the imposition of such charge to terminate this Agreement; provided, however, that [NASD's]FINRA's Regulatory Responsibilities under this Agreement shall continue until the Commission approves the termination of this Agreement.

**5. Reassignment of Regulatory Responsibilities.** Notwithstanding any provision hereof, this Agreement shall be subject to any statute, or any rule or order of the Commission, or industry agreement, restructuring the regulatory framework of the securities industry or reassigning Regulatory Responsibilities between self-regulatory organizations. To the extent such action is inconsistent with this Agreement, such action shall supersede the provisions hereof to the extent necessary for them to be properly effectuated and the provisions hereof in that respect shall be null and void.

**6. Notification of Violations.** In the event that [NASD]FINRA becomes aware of apparent violations of any CBOE or C2 Rules, which are not listed as Common Rules, discovered pursuant to the performance of the Regulatory Responsibilities assumed hereunder, [NASD]FINRA shall notify CBOE and C2 of those apparent violations for such response as CBOE and C2 deems appropriate. [Apparent violations of all other applicable rules, including]In the event, CBOE or C2 becomes aware of

apparent violations of [the]any Common Rules[, various securities acts, and rules and regulations thereunder,] discovered pursuant to the Retained Responsibilities, CBOE and C2 shall notify FINRA of those apparent violations and such matters shall be handled by FINRA as provided in this Agreement. Apparent violations of Common Rules shall be processed by, and enforcement proceedings in respect thereto shall be conducted by [NASD]FINRA as provided hereinbefore; provided, however, that in the event a [Dual]Common Member is the subject of an investigation relating to a transaction on the CBOE or C2 options exchanges or the CBSX, CBOE and C2 may in [its]their discretion assume concurrent jurisdiction and responsibility. Each party agrees to make available promptly all files, records and witnesses necessary to assist the other in its investigation or proceedings.

**7. Continued Assistance.** [NASD]FINRA shall make available to CBOE and C2 all information obtained by [NASD]FINRA in the performance by it of the Regulatory Responsibilities hereunder in respect to the [Dual]Common Members subject to this Agreement. In particular, and not in limitation of the foregoing, [NASD]FINRA shall furnish CBOE and C2 any information it obtains about [Dual]Common Members which reflects adversely on their financial condition. It is understood that such information is of an extremely sensitive nature and, accordingly, CBOE [acknowledges and agrees]and C2 acknowledge and agree to take all reasonable steps to maintain its confidentiality. CBOE and C2 shall make available to [NASD]FINRA any information coming to [its]their attention that reflects adversely on the financial condition of [Dual]Common Members or indicates possible violations of applicable laws, rules or regulations by such firms.

**8. [Dual]Common Member Applications.**

(a) [Dual]Common Members subject to this Agreement shall be required to submit, and [NASD]FINRA shall be responsible for processing and acting upon all applications submitted on behalf of allied persons, partners, officers, registered personnel and any other person required to be approved by the [rules of both CBOE and NASD]Rules of the parties or associated with [Dual]Common Members thereof. Upon request, [NASD]FINRA shall advise CBOE and C2 of any changes of allied members, partners, officers, registered personnel and other persons required to be approved by the [rules of both CBOE and NASD]Rules of the parties.

(b) [Dual]Common Members shall be required to send to [NASD]FINRA all letters, termination notices or other material respecting the individuals listed in paragraph 8(a).

(c) When as a result of processing such submissions [NASD]FINRA becomes aware of a statutory disqualification as defined in the Exchange Act with respect to a [Dual]Common Member, [NASD]FINRA shall determine pursuant to Sections 15A(g) and/or Section 6(c) of the Exchange Act the acceptability or continued applicability of the person to whom such disqualification applies and keep CBOE and C2 advised of its actions in this regard for such subsequent proceedings as CBOE and C2 may initiate.

(d) Notwithstanding the foregoing, [NASD]FINRA shall not review the membership application, reports, filings, fingerprint cards, notices, or other writings filed to determine if such documentation submitted by a broker or

dealer, or a person associated therewith or other persons required to register or qualify by examination meets the CBOE or C2 requirements for general membership or for specified categories of membership or participation in the CBOE or C2. [NASD]FINRA shall not review applications or other documentation filed to request a change in the rights or status described in this paragraph 8(d), including termination or limitation on activities, of a member or a participant of the CBOE or C2, or a person associated with, or requesting association with, a member or participant of the CBOE or C2.

**9. Branch Office Information.** [NASD]FINRA shall also be responsible for processing and, if required, acting upon all requests for the opening, address changes, and terminations of branch offices by [Dual]Common Members and any other applications required of [Dual]Common Members with respect to the Common Rules as they may be amended from time to time. Upon request, [NASD]FINRA shall advise CBOE and C2 of the opening, address change and termination of branch and main offices of [Dual]Common Members and the names of such branch office managers.

**10. Customer Complaints.** CBOE and C2 shall forward to [NASD]FINRA copies of all customer complaints involving [Dual]Common Members received by CBOE and C2 relating to [NASD's]FINRA's Regulatory Responsibilities under this Agreement. It shall be [NASD's]FINRA's responsibility to review and take appropriate action in respect to such complaints.

**11. Advertising.** [NASD]FINRA shall assume responsibility to review the advertising of [Dual]Common Members subject to the Agreement, provided that such material is filed with [NASD]FINRA in accordance with [NASD's]FINRA's filing

procedures and is accompanied with any applicable filing fees set forth in [NASD]FINRA Rules. Such review shall be made in accordance with then applicable [NASD rules]FINRA Rules and interpretations. The advertising of [Dual]Common Members shall be subject only to compliance with appropriate [NASD rules]FINRA Rules and interpretations.

**12. No Restrictions on Regulatory Action.** Nothing contained in this Agreement shall restrict or in any way encumber the right of [either]any party to conduct its own independent or concurrent investigation, examination or enforcement proceeding of or against [Dual]Common Members, as [either]any party, in its sole discretion, shall deem appropriate or necessary.

**13. Termination.** This Agreement may be terminated by [CBOE or NASD]any party at any time upon the approval of the Commission after one (1) year's written notice (or such shorter time as may be agreed by the parties) to the other [party]parties, except as provided in paragraph 4.

**14. Effective Date.** This Agreement shall be effective upon approval of the Commission.

**15. Arbitration.** In the event of a dispute [between]among the parties as to the operation of this Agreement, [CBOE and NASD]the parties hereby agree that any such dispute shall be settled by arbitration in Washington, D.C. in accordance with the rules of the American Arbitration Association then in effect, or such other procedures as the parties may mutually agree upon. Judgment on the award rendered by the arbitrator(s) may be entered in any court having jurisdiction.

**16. Separate Agreement.** This Agreement is wholly separate from the following agreement: (1) the multiparty Agreement made pursuant to Rule 17d-2 of the Exchange Act [between the American Stock Exchange LLC, the Boston Stock]among BATS Exchange, Inc., [the Chicago Board]BOX Options Exchange, [Incorporated]LLC, CBOE, C2, the International Securities Exchange LLC, [the National Association of Securities Dealers, Inc.,]FINRA, the New York Stock Exchange, LLC, NYSE Amex LLC, the NYSE Arca, Inc., [and the Philadelphia Stock Exchange, Inc.]and The NASDAQ Stock Market LLC, NASDAQ OMX BX, Inc., and NASDAQ OMX PHLX LLC involving the allocation of regulatory responsibilities with respect to common members for compliance with common rules relating to the conduct by broker-dealers of accounts for listed options or index warrants entered into on [December 1, 2006] April 25, 2012, and as may be amended from time to time; and (2) the multiparty Agreement made pursuant to Rule 17d-2 of the Exchange Act among NYSE Amex LLC, BATS Exchange, Inc., C2, CBOE, International Securities Exchange LLC, FINRA, NYSE Arca, Inc., The NASDAQ Stock Market LLC, the BOX Options Exchange, LLC, NASDAQ OMX BX, Inc. and NASDAQ OMX PHLX LLC involving the allocation of regulatory responsibilities with respect to SRO market surveillance of common members activities with regard to certain common rules relating to listed options entered into on April 25, 2012, and as may be amended from time to time.

**17. Notification of Members.** [CBOE and NASD]The parties shall notify [Dual]Common Members of this Agreement after the Effective Date by means of a uniform joint notice.

**18. Amendment.** This Agreement may be amended in writing duly approved by each party. All such amendments must be filed with and approved by the Commission before they become effective.

**19. Limitation of Liability.** [Neither NASD nor CBOE]None of the parties nor any of their respective directors, governors, officers or employees shall be liable to [the]any other party to this Agreement for any liability, loss or damage resulting from or claimed to have resulted from any delays, inaccuracies, errors or omissions with respect to the provision of Regulatory Responsibilities as provided hereby or for the failure to provide any such responsibility, except with respect to such liability, loss or damages as shall have been suffered by [one or the other of NASD or CBOE]any party and caused by the willful misconduct [of the other]another party or their respective directors, governors, officers or employees. No warranties, express or implied, are made by [NASD or CBOE]any party hereto with respect to any of the responsibilities to be performed by [each of] them hereunder.

**20. Relief from Responsibility.** Pursuant to Sections 17(d)(1)(A) and 19(g) of the Exchange Act and Rule 17d-2 thereunder, [NASD]FINRA, C2 and CBOE join in requesting the Commission, upon its approval of this Agreement [or any part thereof], to relieve CBOE and C2 of any and all responsibilities with respect to matters allocated to [NASD]FINRA pursuant to this Agreement; provided, however, that this Agreement shall not be effective until the Effective Date.

**21. Counterparts.** This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, and such counterparts together shall constitute one and the same instrument.

IN WITNESS WHEREOF, each party has executed or caused this Agreement to be executed on its behalf by a duly authorized officer as of the date first written above.

[NATIONAL ASSOCIATION OF  
SECURITIES DEALERS]FINANCIAL  
INDUSTRY REGULATORY  
AUTHORITY, INC.

By \_\_\_\_\_  
Name:  
Title:

CHICAGO BOARD OPTIONS  
EXCHANGE, INCORPORATED

By \_\_\_\_\_  
Name:  
Title:

C2 OPTIONS EXCHANGE,  
INCORPORATED

By \_\_\_\_\_  
Name:  
Title:

**Exhibit 1\***

**CBOE AND C2 CERTIFICATION OF COMMON RULES**

CBOE and C2 hereby [certifies] certify that the requirements contained in the [CBOE] Rules listed below are identical to, or substantially similar to, the NASD/FINRA or SEC Rules identified.<sup>[1]</sup>

<b><u>C2 RULE(S)</u></b>	<b><u>CBOE RULE(S)</u></b>	<b><u>CBSX</u></b> <sup>1</sup>	<b><u>NASD/<u>FINRA</u> or SEC RULE(S)</u></b> <sup>2</sup>
<u>Chapter 4 Business Conduct CBOE Rule 4.18 is incorporated by reference</u>	4.18 Prevention of the Misuse of Material, Nonpublic Information	<u>Appendix A - CBOE Rule 4.18 is incorporated by reference</u>	Section 15(f) of the Securities Exchange Act of 1934 (Exchange Act) <sup>[3]</sup>
<u>Chapter 4 Business Conduct CBOE Rule 4.20 is incorporated by reference</u>	4.20 Anti-Money Laundering Compliance Program	<u>Appendix A -CBOE Rule 4.20 is incorporated by reference</u>	<u>FINRA Rule 3310 [3011] Anti-Money Laundering Compliance Program</u> <sup>3</sup>

\* The Commission notes that although CBSX was covered by the original Plan, the Parties have determined to explicitly list CBSX rules in this exhibit as part of the proposed amended 17d-2 Plan, to provide additional clarity. See E-mail from Kathryn Moore, Associate General Counsel, FINRA, to Sonia Trocchio, Special Counsel, Division of Trading and Markets, Commission (April 10, 2014).

<sup>1</sup> [To the extent that any CBOE Rule listed herein makes reference to options, such rule] The rules applicable to CBSX are Chapters 50 through 54 and Appendix A of the CBOE rules. Any reference to options shall be read to apply to equity securities [as provided in] (See e.g., CBOE Rule 53.6).

<sup>2</sup> CBOE and C2, as applicable, will be responsible for any significant differences between its rules and the comparable NASD/FINRA rule identified.

<sup>3</sup> NASD shall not have any Regulatory Responsibilities regarding the CBOE requirement to have Form X-17A-5 filed with CBOE; responsibility for such requirement remains with CBOE.]

<sup>3</sup> FINRA shall not have any Regulatory Responsibilities regarding the requirement to conduct independent testing during the first calendar year of a broker-dealer becoming a Trading Permit Holder or TPH organization; responsibility for such requirement remains with CBOE and C2, as applicable.

<b><u>C2 RULE(S)</u></b>	<b><u>CBOE RULE(S)</u></b>	<b><u>CBSX</u></b> <sup>1</sup>	<b><u>NASD/FINRA or SEC RULE(S)</u></b> <sup>2</sup>
<u>Chapter 9 Doing Business with the Public CBOE Rule 9.3 incorporated by reference**</u>	9.3 Registration and Termination of Representatives**	<u>53.6(i) Applicability of Chapter IX - CBOE Rule 9.3 is incorporated by reference</u>	<u>NASD Rule 1031(a), (b) Registration Requirements, [1140(a), (d)] FINRA Rule 1010(a) and (e) Electronic Filing [Rules] Requirements for Uniform Forms, and [NASD] FINRA By-Laws, Art. V, Sections 2 and 3 Registered Representatives and Associated Persons</u>
<u>Chapter 9 Doing Business with the Public - CBOE Rule 9.3A is incorporated by reference</u>	9.3A Continuing Education For Registered Persons	<u>53.6(i) Applicability of Chapter IX - CBOE Rule 9.3A is incorporated by reference</u>	<u>FINRA Rule 1250 [1120] Continuing Education Requirements</u> <sup>4</sup>
<u>Chapter 9 Doing Business with the Public - CBOE Rule 9.4(a) is incorporated by reference</u>	9.4(a) Other Affiliations of Registered Associated Persons	<u>53.6(i) Applicability of Chapter IX - CBOE Rule 9.4(a) is incorporated by reference</u>	<u>FINRA Rule 3270 [3030] Outside Business Activities of [an Associated] Registered Persons</u> <sup>5</sup>

<sup>4</sup> FINRA shall only have Regulatory Responsibilities to the extent that the allowance for additional time is consistently granted.

<sup>5</sup> FINRA shall not have any Regulatory Responsibilities regarding the requirement that the Trading Permit Holder provide prior written consent to the TPH organization; responsibility for such requirement remains with CBOE and C2, as applicable.

<b><u>C2 RULE(S)</u></b>	<b><u>CBOE RULE(S)</u></b>	<b><u>CBSX</u></b> <sup>1</sup>	<b><u>NASD/FINRA or SEC RULE(S)</u></b> <sup>2</sup>
<u>Chapter 9 Doing Business with the Public CBOE Rule 9.12 incorporated by reference**</u>	9.12 Statements of Accounts to Customers <sup>[4]**</sup>	<u>53.6(i) Applicability of Chapter IX - CBOE Rule 9.12 is incorporated by reference</u> <sup>6</sup>	<u>NASD Rule 2340 Customer Account Statements</u>
<u>Chapter 9 Doing Business with the Public - CBOE Rule 9.13 is incorporated by reference</u>	9.13 Statement of Financial Condition to Customers	<u>53.6(i) Applicability of Chapter IX - CBOE Rule 9.13 is incorporated by reference</u>	Exchange Act Rule 17a-5 <sup>7</sup>
<u>Chapter 9 Doing Business with the Public - CBOE Rule 9.16 is incorporated by reference</u>	9.16 Restrictions on Pledge and Lending of Customers' Securities	<u>53.6(i) Applicability of Chapter IX - CBOE Rule 9.16 is incorporated by reference</u>	<u>FINRA Rule 2150(a) Improper Use of Customers' Securities or Funds; Prohibition Against Guarantees and Sharing in Accounts, and NASD Rule 2330[(a)][(b) - (d) Customers' Securities or Funds</u>

<sup>[4]</sup><sup>6</sup> FINRA [NASD] shall not have any Regulatory Responsibilities regarding the CBOE requirement that the statement have a legend requesting the customer to advise the member of any material change in the customer's investment objectives or financial situation; responsibility for such requirement remains with CBOE.

<sup>7</sup> FINRA shall not have any Regulatory Responsibilities regarding the CBOE and C2 requirement to have Form X-17A-5 filed with CBOE and C2, as applicable; responsibility for such requirement remains with CBOE and C2, as applicable.

<b><u>C2 RULE(S)</u></b>	<b><u>CBOE RULE(S)</u></b>	<b><u>CBSX</u><sup>1</sup></b>	<b><u>NASD/FINRA or SEC RULE(S)</u><sup>2</sup></b>
<u>Chapter 9 Doing Business with the Public</u> <u>CBOE Rule 9.18</u> <u>incorporated by reference**</u>	9.18 Guarantees and Profit Sharing**	<u>53.6(i) Applicability of Chapter 9 - CBOE Rule 9.18 is incorporated by reference</u>	<u>FINRA Rule 2150(b) and (c) Improper Use of Customers' Securities or Funds; Prohibition Against Guarantees and Sharing in Accounts</u> <sup>8</sup> [2330(e) & (f) Customers' Securities or Funds <sup>5</sup> ]
<u>Chapter 9 Doing Business with the Public - CBOE Rule 9.20 is incorporated by reference</u>	9.20 Transfer of Accounts	<u>53.6(i) Applicability of Chapter 9 - CBOE Rule 9.20 is incorporated by reference</u>	<u>FINRA Rule 11870 Customer Account Transfer Contracts</u>
<u>Chapter 9 Doing Business with the Public</u> <u>CBOE Rule 9.23</u> <u>incorporated by reference**</u>	9.23 Customer Complaints <sup>[6]**</sup>	<u>53.7 Record of Written Complaints</u> <sup>9</sup>	<u>FINRA Rule 4513 Records of Written Customer Complaints [3110(d) Books and Records]</u>

<sup>8</sup><sup>5</sup> The NASD Rule] FINRA Rule 2150 requires, among other things, prior written approval of the member employing the associated person in order for such associated person to share in accounts of a customer, whereas the CBOE rule requires consent of the member *carrying* the account. To the extent that the employing member and carrying member are different firms, the [NASD's and CBOE's rule] FINRA and CBOE rules differ, and [NASD's] FINRA's Regulatory [Responsibility] Responsibilities will not cover the CBOE[s] rule; responsibility for such requirement remains with CBOE.

<sup>9</sup> FINRA shall only have Regulatory Responsibilities to the extent records must be kept for four years. [<sup>6</sup> NASD shall not have any Regulatory Responsibilities regarding the CBOE requirement of what must be contained in the complaint file or the timing during which the complaint must be sent to the central file by the branch office; responsibility for such requirement remains with CBOE.]

<b><u>C2 RULE(S)</u></b>	<b><u>CBOE RULE(S)</u></b>	<b><u>CBSX</u><sup>1</sup></b>	<b><u>NASD/FINRA or SEC RULE(S)</u><sup>2</sup></b>
<u>Chapter 9 Doing Business with the Public - CBOE Rule 9.24 is incorporated by reference</u>	9.24 Telephone Solicitation	<u>Appendix A -CBOE Rule 9.24 is incorporated by reference</u>	<u>FINRA Rule 3230 Telemarketing</u> [2212 Telemarketing and 3110(g) Books and Records]
<u>Chapter 9 Doing Business with the Public - CBOE Rule 9.25 is incorporated by reference</u>	9.25 Borrowing From or Lending to Customers		<u>FINRA Rule 3240</u> [2370] Borrowing From or Lending to Customers
<u>Chapter 9 Doing Business with the Public CBOE Rule 9.7 incorporated by reference**</u>	<u>9.7 Opening of Accounts**</u> [53.6(c) Duty to Know and Approve Customers]	<u>53.6(c) Duty to Know and Approve Customers</u>	<u>FINRA Rule 2090 Know Your Customer</u> <sup>10</sup> and <u>FINRA Rule 4512 Customer Account Information</u> [2310 Recommendations to Customers (Suitability) and 3110(c) Books and Records]
<u>Chapter 9 Doing Business with the Public CBOE Rule 9.6 incorporated by reference**</u>	<u>9.6 Branch Offices of TPH Organizations**</u> [53.6(d) Branch Offices of Member Organizations]	<u>53.6(d) Branch Offices of TPH Organizations</u>	<u>NASD Rule 1021(a)</u> Registration Requirements and <u>NASD IM-1000-4</u> Branch Offices and Offices of Supervisory Jurisdiction

<sup>10</sup> FINRA shall only have regulatory Responsibilities with regard to the first sentence of CBSX Rule 53.6(c); responsibility for the remainder of the rule remains with CBOE.

<b><u>C2 RULE(S)</u></b>	<b><u>CBOE RULE(S)</u></b>	<b><u>CBSX</u></b> <sup>1</sup>	<b><u>NASD/FINRA or SEC RULE(S)</u></b> <sup>2</sup>
<u>Chapter 9 Doing Business with the Public</u> <u>CBOE Rule 9.10</u> <u>incorporated by reference**</u>	<u>9.10 Discretionary Accounts**</u> [53.6(e) Discretionary Accounts]	<u>53.6(e) Discretionary Accounts</u>	<u>NASD Rule 2510</u> <u>Discretionary Accounts,</u> <u>Exchange Act Rule 17a-3(a)(6)(i)</u> <sup>11</sup>
<u>Chapter 9 Doing Business with the Public</u> <u>CBOE Rule 9.11</u> <u>incorporated by reference**</u>	<u>9.11 Confirmation to Customers**</u> [53.6(f) Confirmation to Customers]	<u>53.6(f) Confirmation to Customers</u>	<u>FINRA Rule 2232 Customer</u> <u>[2230] Confirmations and</u> <u>Exchange Act Rule 10b-10</u> <sup>7]</sup> <sup>12</sup>
	[53.6(g) Communications to Customers]		[2210(b) and (d) Communications with the Public and IM-2210-1(6) Guidelines to Ensure that Communications With The Public Are Not Misleading]
<u>Chapter 9 Doing Business with the Public</u> <u>CBOE Rule 9.8</u> <u>incorporated by reference**</u>	<u>9.8 Supervision of Accounts**</u> [53.6(h) Supervision of Accounts]	<u>53.6(h) Supervision of Accounts</u>	<u>NASD Rule 3010(a), (b)</u> <u>Supervision [and 3110(c)</u> <u>Books and Records]*</u>

<sup>11</sup> NASD Rule 2510 requires review of transactions in discretionary accounts by “the member or person duly designated.” However, CBSX Rule 53.6(e)(3) requires approval of discretionary accounts by “a person other than a person using the discretionary authority.” To the extent this requirement of approval by a person other than a person using the discretionary authority applies, FINRA’s Regulatory Responsibilities will not cover CBSX’s rule; responsibility for such requirement remains with CBOE.

<sup>7</sup> NASD] <sup>12</sup> FINRA shall not have any Regulatory Responsibilities regarding the [CBOE] CBSX requirements to disclose on a confirmation: 1) the settlement date of a transaction to the extent it is not required by FINRA Rule 2232(b)(1); or 2) whether a transaction was executed on the [CBOE] CBSX; responsibility for such requirements remains with CBOE.

\* FINRA shall not have any Regulatory Responsibilities for these Rules as they pertain to violations of insider trading activities, which is covered by a separate 17d-2 Agreement by and among the BATS Exchange, Inc., BATS-Y Exchange, Inc., CBOE, Chicago Stock Exchange, Inc., EDGA Exchange, Inc., EDGX Exchange, Inc., FINRA, NASDAQ OMX BX, Inc., NASDAQ OMX PHLX LLC, The NASDAQ Stock Market LLC, National Stock Exchange, Inc., New York Stock Exchange, LLC, NYSE Amex LLC, and NYSE Arca Inc., effective December 16, 2011, as may be amended from time to time.

\*\* FINRA shall not have any Regulatory Responsibilities for these Rules as they pertain to violations of sales practice activities, which is covered by a separate 17d-2 Agreement by and among NYSE MKT LLC, BATS Exchange, Inc., BOX Options Exchange LLC, C2 Options Exchange, Incorporated, the Chicago Board Options Exchange, Incorporated, the International Securities Exchange LLC, FINRA, NYSE Arca, Inc., The NASDAQ Stock Market LLC, NASDAQ OMX BX, Inc., the NASDAQ OMX PHLX, Inc., Miami International Securities Exchange, LLC, and Topaz Exchange, LLC, effective July 26, 2013, as may be amended from time to time.

The following provisions are covered:

- Rule 200 of Regulation SHO - Definition of Short Sales and Marking Requirements
- Rule 203 of Regulation SHO - Borrowing and Delivery Requirements
- Rule 204 of Regulation SHO – Close-Out Requirement
- Rule 105 of Regulation M – Short Selling in Connection with a Public Offering
- Section 14(e) of the Exchange Act

- Rule 14e-4 of the Exchange Act – Prohibited Transactions in Connection with Partial Tender Offers
- Regulation ATS
- Regulation S-P

IV. Date of Effectiveness of the Proposed Plan and Timing for Commission Action

Pursuant to Section 17(d)(1) of the Act<sup>11</sup> and Rule 17d-2 thereunder,<sup>12</sup> after [insert date 15 days from publication in the Federal Register], the Commission may, by written notice, declare the plan submitted by CBOE, C2, and FINRA, File No. 4-536, to be effective if the Commission finds that the plan is necessary or appropriate in the public interest and for the protection of investors, to foster cooperation and coordination among self-regulatory organizations, or to remove impediments to and foster the development of the national market system and a national system for the clearance and settlement of securities transactions and in conformity with the factors set forth in Section 17(d) of the Act.

V. Solicitation of Comments

In order to assist the Commission in determining whether to approve the proposed 17d-2 Plan and to relieve CBOE and C2 of the responsibilities which would be assigned to FINRA, interested persons are invited to submit written data, views, and arguments concerning the foregoing. Comments may be submitted by any of the following methods:

Electronic comments:

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/other.shtml>); or
- Send an e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number 4-536 on the subject line.

Paper comments:

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

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<sup>11</sup> 15 U.S.C. 78q(d)(1).

<sup>12</sup> 17 CFR 240.17d-2.

All submissions should refer to File Number 4-536. 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/other.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed plan that are filed with the Commission, and all written communications relating to the proposed plan 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, on official business days between the hours of 10:00 am and 3:00 pm. Copies of the plan also will be available for inspection and copying at the principal offices of CBOE, C2, and 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 4-536 and should be submitted on or before [insert date 15 days from publication in the Federal Register].

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

Kevin M. O'Neill  
Deputy Secretary

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<sup>13</sup> 17 CFR 200.30-3(a)(34).