

(SECURITIES AND EXCHANGE COMMISSION)
(Release No. 34-78294; File No. SR-C2-2016-005)

July 12, 2016

Self-Regulatory Organizations; C2 Options Exchange, Incorporated; Order Approving a
Proposed Rule Change Relating to Senior Management Authority

I. Introduction

On May 23, 2016, 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”)¹ and Rule 19b-4 thereunder,² a proposed rule change to amend its Bylaws and Rules with respect to delegations of certain authorities to senior management. The proposed rule change was published for comment in the Federal Register on June 7, 2016.³ The Commission received no comments on the proposal. This order approves the proposed rule change.

II. Description of the Proposed Rule Change⁴

The Exchange proposes to update references to senior management contained in its Bylaws and Rules to more accurately reflect roles and responsibilities within its current senior management structure. The Exchange notes that historically the C2 Chairman of the Board also held the title of Chief Executive Officer (“CEO”). Currently, however, the titles of Chairman of Board, CEO, and President are held by three different individuals. As such, the Exchange proposes to amend its rules relating to authorities delegated to senior management to more accurately reflect the current senior management structure.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 77961 (June 1, 2016), 81 FR 36639 (June 7, 2016) (“Notice”).

⁴ A more detailed description of the proposed rule change appears in the Notice. See id.

A. Reference to Office of the Chairman

First, the Exchange proposes to eliminate the reference to the Office of the Chairman in Section 6.1 (Advisory Board) of the Exchange’s Bylaws and replace it with a reference to “management.”⁵ Section 6.1 currently provides that the Board will establish an Advisory Board which shall advise the Board and the Office of the Chairman regarding matters of interest to Trading Permit Holders (“TPHs”). The Exchange notes that the Advisory Board’s Charter provides that the Advisory Board shall advise the Board and “management” regarding matters of interest to TPHs.⁶ In order to conform the language in Section 6.1 to the Advisory Board Charter, the Exchange proposes to replace the reference to the Office of the Chairman with management.⁷

B. Title of Chapter 16 in the C2 Rule’s Table of Contents

Second, the Exchange proposes to amend the title of Chapter 16 in the C2 Rule’s Table of Contents.⁸ Currently, the title of Chapter 16 is “Summary Suspension by Chairman of the Board or Vice Chairman of the Board.” The Exchange notes that rules contained within CBOE Chapter XVI are incorporated into C2’s Chapter 16.⁹ CBOE Chapter XVI currently provides that the Chairman of the Board or President may summarily suspend a TPH and limit or prohibit any person with respect to access to services offered by the Exchange.¹⁰ The Exchange notes however, that CBOE is concurrently proposing to amend its rules to provide

⁵ See id.

⁶ See id.

⁷ See id. Additionally, the title of the Bylaws will be changed to Fifth Amended and Restated Bylaws of C2. See id.

⁸ See id.

⁹ See id.

¹⁰ See CBOE Rule 16.1.

that the CEO (rather than Chairman) or President may summarily suspend a TPH.¹¹

Additionally, the Exchange notes that it no longer maintains the role of Vice Chairman of the Board.¹² As such, the Exchange proposes to amend the Chapter 16 title to simply state “Summary Suspension” to avoid confusion and maintain clarity in the rules.

C. References to Chairman of the Board

Last, the Exchange proposes to amend Rule 6.33 (Authority to Take Action Under Emergency Conditions) to eliminate the reference to “Chairman of the Board” and replace it with “Chief Executive Officer.” Rule 6.33 currently provides that the Chairman of the Board, the President, or such other person or persons as may be designated by the Board shall have the power to halt or suspend trading in some or all securities traded on the Exchange, to close some or all Exchange facilities, to determine the duration of any such halt, suspension or closing, to take one or more of the actions permitted to be taken by any person or body of the Exchange under Exchange rules, or to take any other action deemed to be necessary or appropriate for the maintenance of a fair and orderly market or the protection of investors, or otherwise in the public interest, due to emergency conditions or extraordinary circumstances. The Exchange notes that the CEO’s responsibility is that of general charge and supervision of the business of the Corporation,¹³ whereas the Chairman of the Board’s responsibility is that of the presiding officer at all meetings of the Board and stockholders, as well as of other powers and duties as are delegated by the Board.¹⁴ The Exchange believes the responsibilities currently delegated to the Chairman of the Board under Rule 6.33 pertain to the general

¹¹ See Securities Exchange Act Release No. 77962 (June 1, 2016), 81 FR 36641 (June 7, 2016) (SR-CBOE-2016-047).

¹² See Notice, supra note 3, at 36640.

¹³ See Section 5.2 of the C2 Bylaws.

¹⁴ See Section 3.6 of the C2 Bylaws.

charge and supervision of the Exchange's business and therefore fall within the scope of the CEO's stated responsibilities, instead of the Chairman's.

III. Discussion and Commission Findings

The Commission finds that the proposed rule change is consistent with the Act and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.¹⁵ Specifically, the Commission believes the proposed rule change is consistent with the Section 6(b)(5)¹⁶ 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 facilitating 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.

In particular, the Commission believes the proposed rule changes will remove impediments to, and perfect the mechanism of a free and open market and a national market system, and, in general, will protect investors and the public interest by updating the delegation of authority to senior management under certain of the Exchange's Rules, which should facilitate the Exchange's ability to operate and carry out its self-regulatory responsibilities. In particular, the proposed rule changes to eliminate the reference to the Office of the Chairman and replace it with a reference to management in Section 6.1 of the Exchange's Bylaws will alleviate confusion regarding the responsibilities of the Advisory

¹⁵ 15 U.S.C. 78f(b).

¹⁶ 15 U.S.C. 78f(b)(5).

Board. The Exchange notes that the Advisory Board’s Charter provides that the Advisory Board shall advise the Board and “management” regarding matters of interest to TPHs.¹⁷ Replacing the term Office of the Chairman with the term management will ensure that the Exchange’s Bylaws conform to the Advisory Board Charter, thereby reducing uncertainty about the responsibilities of the Advisory Board.

The Exchange’s proposal to rename the title of Chapter 16 will alleviate confusion as that Chapter incorporates by reference CBOE’s Chapter XVI rules that are subject to a proposed rule change to remove references to the Chairman of the Board and replace them with CEO. Moreover, the proposed rule change will eliminate a reference to the Vice Chairman, a title that C2 no longer uses.

Finally, the Exchange’s proposal to amend Rule 6.33 to replace the references to the Chairman of the Board with the CEO should update and clarify which Exchange official is vested with the authorities established in that rule. The Exchange represents that while historically the Chairman of the Board also held the title of CEO, currently, the two titles are held by different individuals.¹⁸ The Exchange Bylaws confer different responsibilities on the Chairman of the Board and the CEO.¹⁹ The proposed rule change will ensure that the authority delegated pursuant to Rule 6.33 is consistent with the roles and responsibilities established in the Bylaws.

¹⁷ See Notice, supra note 3, at 36639.

¹⁸ See id.

¹⁹ See id. at 36640.

IV. Conclusion

IT IS THEREFORE ORDERED, pursuant to Section 19(b)(2) of the Act,²⁰ that the proposed rule change (SR-C2-2016-005) be, and it hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.²¹

Robert W. Errett
Deputy Secretary

²⁰ 15 U.S.C. 78s(b)(2).

²¹ 17 CFR 200.30-3(a)(12).