

related to membership administration. The proposed fee is in the range of similar fees at other exchanges and less than other fees.<sup>13</sup> In addition, the Exchange believes that the Permit Fee is equitable and not unfairly discriminatory, because unlike other exchanges, Phlx's Permit Fees are the same for every options permit holder that is conducting business at the Exchange. The Exchange also believes that the increased fee is equitable and not unfairly discriminatory because the Permit Fee for not transacting business on the Exchange remains substantially higher as is the case today.

The Exchange believes that the increase to the Order Entry Port Fee is reasonable because it would allow the Exchange to keep pace with increasing technology costs. The Exchange believes that the increase to the Order Entry Port Fee is equitable and not unfairly discriminatory because all members would be subject to the same fees and waivers related to the Order Entry Port Fee.

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

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The proposed fee increases are competitive with fees at other options exchanges.

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

No written comments were either solicited or received.

<sup>13</sup> See the Chicago Board Options Exchange, Incorporated's Fees Schedule. Per month a Market Maker Trading Permit is \$5,500, a SPX Tier Appointment is \$3,000, a VIX Tier Appointment is \$2,000, a Floor Broker Trading Permit is \$9,000, an Electronic Access Permit is \$1,600 and there is no access fee for a CBSX Trading Permit. See also the International Securities Exchange LLC's Schedule of Fees. Per month an Electronic Access Member is assessed \$500.00 for membership and a market maker is assessed from \$2,000 to \$4,000 per membership depending on the type of market maker. See also C2 Options Exchange, Incorporated's Fees Schedule. Per month, a market-maker is assessed a \$5,000 permit fee, an Electronic Access Permit is assessed a \$1,000 permit fee and a SPXM Tier appointment is assessed a \$4,000 fee after March 31, 2013. See also NYSE Arca, Inc.'s Fee Schedule. Per month, a Floor Broker, Office and Clearing Firm are assessed a \$1,000 per month fee for the first Options Trading Permit ("OTP") and \$250 thereafter, and a market maker is assessed a \$4,000 per month fee for one to four OTPs and \$2,000 thereafter.

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

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act.<sup>14</sup> 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 shall institute proceedings to determine whether the proposed rule 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 email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-Phlx-2012-140 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-Phlx-2012-140. 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 10:00 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-Phlx-2012-140 and should be submitted on or before January 16, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>15</sup>

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

[FR Doc. 2012-30981 Filed 12-21-12; 4:15 pm]

**BILLING CODE 8011-01-P**

## **SECURITIES AND EXCHANGE COMMISSION**

**[Release No. 34-68475; File No. SR-FINRA-2012-054]**

### **Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Add the Term Chief Legal Officer to the Definition of General Counsel**

December 19, 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 December 11, 2012, Financial Industry Regulatory Authority, Inc. ("FINRA") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II and III below, which Items have been prepared by FINRA. FINRA has designated the proposed rule change as concerned solely with the administration of the self-regulatory organization under Section 19(b)(3)(A)(iii) of the Act<sup>3</sup> and Rule 19b-4(f)(3) thereunder,<sup>4</sup> which renders the proposal effective upon receipt of this filing by the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

<sup>15</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> 15 U.S.C. 78s(b)(3)(A)(iii).

<sup>4</sup> 17 CFR 240.19b-4(f)(3).

<sup>14</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

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

FINRA is proposing to amend [sic] FINRA Rule 9120 (Definitions) to add the term "Chief Legal Officer" to the definition of "General Counsel."

The text of the proposed rule change is available on FINRA's Web site at <http://www.finra.org>, at the principal office of FINRA 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, FINRA 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. FINRA 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 Statutory Basis for, the Proposed Rule Change

#### 1. Purpose

FINRA is proposing to expand the definition of General Counsel to acknowledge changes in FINRA's executive management. When FINRA adopted the Code of Procedure in 1997, it defined "General Counsel" as meaning "the General Counsel of [FINRA], or his or her delegatee, who shall be a person who reports to the General Counsel of [FINRA] \* \* \*"<sup>5</sup> Recently FINRA has appointed a Chief Legal Officer, an action that is similar to appointments made in the legal departments of other self-regulatory organizations. The proposed rule change adds the term "Chief Legal Officer" to the definition of "General Counsel." This addition will confirm that when the Code of Procedure refers to the General Counsel, the reference includes FINRA's Chief Legal Officer and his or her delegates.

FINRA has filed the proposed rule change for immediate effectiveness. The effective date and the implementation date will be the date of filing.

#### 2. Statutory Basis

FINRA believes that the proposed rule change is consistent with the provisions

of Section 15A(b)(8) of the Act,<sup>6</sup> which requires, among other things, that FINRA rules provide a fair procedure for the disciplining of members and persons associated with members, and Section 15A(b)(6) of the Act,<sup>7</sup> which requires, among other things, that FINRA rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general to protect investors and the public interest. The proposed rule change will confirm that the Chief Legal Officer may take certain actions that the Code of Procedure also authorizes the General Counsel to take. In making this clarification, FINRA believes that the proposed rule change will assist in the efficient administration of actions governed by the Code of Procedure. Adding the term "Chief Legal Officer" will allow the Code of Procedure to match its terms with the titles currently used by FINRA's executives. FINRA believes that the proposed rule change will, accordingly, make the Code of Procedure easier to understand and apply.

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

FINRA does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act as the proposed rule change is concerned solely with the administration of the FINRA.

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

Written comments were neither solicited nor received.

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

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>8</sup> and paragraph (f)(3) of Rule 19b-4 thereunder.<sup>9</sup> 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 shall institute proceedings to determine whether the proposed rule 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 email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-FINRA-2012-054 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-2012-054. 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 20549-1090, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the FINRA's principal office. 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-2012-054, and should be submitted on or before January 16, 2013

<sup>5</sup> See Securities Exchange Act Release No. 38908 (August 7, 1997), 62 FR 43385 (August 13, 1997) (Order Approving File No. SR-NASD-97-28).

<sup>6</sup> 15 U.S.C. 78o-3(b)(8).

<sup>7</sup> 15 U.S.C. 78o-3(b)(6).

<sup>8</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>9</sup> 17 CFR 240.19b-4(f)(3).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>10</sup>

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

[FR Doc. 2012-31015 Filed 12-21-12; 4:15 pm]

BILLING CODE 8011-01-P

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-68479; File No. SR-C2-2012-040]

### Self-Regulatory Organizations; C2 Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to the Options Regulatory Fee

December 19, 2012.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on December 7, 2012, 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.

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

C2 Options Exchange, Incorporated (the "Exchange" or "C2") proposes to amend its Options Regulatory Fee. The text of the proposed rule change is available on the Exchange's Web site (<http://www.c2exchange.com/Legal/>), at the Exchange's Office of the Secretary, and at the Commission.

#### 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 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 Statutory Basis for, the Proposed Rule Change

##### 1. Purpose

The Exchange has reevaluated the current amount of the Options Regulatory Fee ("ORF") in connection with its annual budget review. In light of increased regulatory costs and expected volume levels for 2013, the Exchange proposes to increase the ORF from \$.0015 per contract to \$.002 per contract. The Exchange is amending the ORF due to substantial increases in resources devoted to regulatory services, including the recent hiring of many new employees, increased office space and regulatory systems enhancements. These increased regulatory costs coincide with a decrease in industry transaction volume. The proposed fee would be operative on January 2, 2013.

The ORF is assessed by the Exchange to each Permit Holder for all options transactions executed or cleared by the Permit Holder that are cleared by The Options Clearing Corporation ("OCC") in the customer range, i.e., transactions that clear in a customer account at OCC, regardless of the marketplace of execution. In other words, the Exchange imposes the ORF on all customer-range transactions executed by a Permit Holder, even if the transactions do not take place on the Exchange.<sup>3</sup> The ORF also is charged for transactions that are not executed by a Permit Holder but are ultimately cleared by a Permit Holder. In the case where a Permit Holder executes a transaction and a different Permit Holder clears the transaction, the ORF is assessed to the Permit Holder who executed the transaction. In the case where a non-Permit Holder executes a transaction and a Permit Holder clears the transaction, the ORF is assessed to the Permit Holder who clears the transaction. The ORF is collected indirectly from Permit Holders through their clearing firms by OCC on behalf of the Exchange.

The ORF is designed to recover a material portion of the costs to the Exchange of the supervision and

regulation of Permit Holder customer options business, including performing routine surveillances, investigations, as well as policy, rulemaking, interpretive and enforcement activities. The Exchange believes that revenue generated from the ORF, when combined with all of the Exchange's other regulatory fees and fines, will cover a material portion, but not all, of the Exchange's regulatory costs. The Exchange notes that its regulatory responsibilities with respect to Permit Holder compliance with options sales practice rules have been allocated to FINRA under a 17d-2 agreement. The ORF is not designed to cover the cost of options sales practice regulation.

The Exchange will continue to monitor the amount of revenue collected from the ORF to ensure that it, in combination with its other regulatory fees and fines, does not exceed the Exchange's total regulatory costs. If the Exchange determines regulatory revenues exceed regulatory costs, the Exchange will adjust the ORF by submitting a fee change filing to the Commission. The Exchange notifies Permit Holders of adjustments to the ORF via regulatory circular.

##### 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.<sup>4</sup> Specifically, the Exchange believes the proposed rule change is consistent with Section 6(b)(4) of the Act<sup>5</sup>, which provides that Exchange rules may provide for the equitable allocation of reasonable dues, fees, and other charges among its Permit Holders and other persons using its facilities. The Exchange believes the proposed fee change is reasonable because industry transaction volume has declined while the Exchange's regulatory expenses have increased. The Exchange is amending the ORF due to substantial increases in resources devoted to regulatory services, including the recent hiring of many new employees, increased office space and regulatory systems enhancements. The proposed ORF increase would help to offset these increased regulatory expenses but does not result in total regulatory revenue exceeding total regulatory costs.

The Exchange believes the ORF is equitable and not unfairly discriminatory because it is objectively allocated to Permit Holders in that it is

<sup>10</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> Exchange rules require each Permit Holder to record the appropriate account origin code on all orders at the time of entry in order to allow the Exchange to properly prioritize and route orders and assess transaction fees pursuant to the rules of the Exchange and report resulting transactions to the OCC. C2 order origin codes are defined in C2 Regulatory Circular RG10-4. The Exchange represents that it has surveillances in place to verify that Permit Holders mark orders with the correct account origin code.

<sup>4</sup> 15 U.S.C. 78f(b).