

extending the effective date until March 4, 2013. FINRA, therefore, believes that the proposed rule change will promote the orderly coordination and implementation of technological and other changes to facilitate compliance with new FINRA Rule 5350.

#### *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.

#### *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**

FINRA has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act<sup>9</sup> and Rule 19b-4(f)(6) thereunder.<sup>10</sup> Because the proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>11</sup> and Rule 19b-4(f)(6)(iii) thereunder.<sup>12</sup>

A proposed rule change filed under Rule 19b-4(f)(6)<sup>13</sup> normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b-4(f)(6)(iii),<sup>14</sup> the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. FINRA has indicated that its members have been delayed in their efforts to finalize standard order

nomenclature and order messaging standards, and have requested additional time to prepare for compliance with the new rule. The Commission notes that the proposed rule change does not present any new, unique, or substantive issues, but rather is merely delaying the implementation date of a proposed rule change the Commission previously approved, and that waiver of the 30-day operative delay will allow FINRA to announce the delayed implementation date to members immediately. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest and, therefore, designates the proposed rule change as operative upon filing.<sup>15</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-2013-004 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-2013-004. 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

<sup>15</sup> For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

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 such filing also will be available for inspection and copying at the principal office of 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 SR-FINRA-2013-004 and should be submitted on or before February 15, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>16</sup>

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

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### **SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-68697; File No. SR-C2-2013-001]

#### **Self-Regulatory Organizations; C2 Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to the BBO Data Feed for C2 Listed Options**

January 18, 2013.

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 January 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

<sup>16</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>9</sup> 15 U.S.C. 78s(b)(3)(A)(iii).

<sup>10</sup> 17 CFR 240.19b-4(f)(6).

<sup>11</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>12</sup> 17 CFR 240.19b-4(f)(6)(iii). FINRA has requested that the Commission waive the requirement that FINRA provide the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date on which FINRA filed the proposed rule change pursuant to Rule 19b-4(f)(6)(iii). The Commission hereby grants this request.

<sup>13</sup> 17 CFR 240.19b-4(f)(6).

<sup>14</sup> 17 CFR 240.19b-4(f)(6)(iii).

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 Substance of the Proposed Rule Change**

The Exchange proposes to identify certain additional market data made available by Market Data Express, LLC ("MDX"), an affiliate of C2, as part of the BBO Data Feed for C2 listed options ("C2 BBO Data Feed"). The text of the proposed rule change is available on the Exchange's Web site (<http://www.cboe.com/AboutCBOE/CBOELegalRegulatoryHome.aspx>), 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 purpose of the proposed rule change is to reflect MDX's current practice of making certain additional market data available as part of the C2 BBO Data Feed.<sup>3</sup>

The C2 BBO Data Feed is a real-time, low latency data feed that includes C2 "BBO data" and last sale data.<sup>4</sup> The BBO and last sale data contained in the C2 BBO Data Feed is identical to the data that C2 sends to the Options Price

<sup>3</sup> The C2 BBO Data Feed and the fees charged by MDX for the C2 BBO Data Feed were established in March 2011. See Securities Exchange Act Release No. 63996 (March 1, 2011), 76 FR 12386 (March 7, 2011).

<sup>4</sup> The BBO Data Feed includes the "best bid and offer," or "BBO", consisting of all outstanding quotes and standing orders at the best available price level on each side of the market, with aggregate size ("BBO data," sometimes referred to as "top of book data"). Data with respect to executed trades is referred to as "last sale" data.

Reporting Authority ("OPRA") for redistribution to the public.<sup>5</sup>

The C2 BBO Data Feed also includes certain data that is not included in the data sent to OPRA, namely, totals of customer versus non-customer contracts at the BBO, All-or-None contingency orders priced better than or equal to the BBO, and BBO data and last sale data for complex strategies (e.g., spreads, straddles, buy-writes, etc.). MDX charges Customers a "direct connect fee" of \$1,000 per connection per month and a "per user fee" of \$25 per month per "Authorized User" or "Device" for receipt of the C2 BBO Data Feed by Subscribers.<sup>6</sup> Either a C2 Permit Holder or a non-C2 Permit Holder may be a Customer. All Customers are assessed the same fees.

MDX currently makes available an additional set of data as part of the C2 BBO Data Feed at no additional charge to Customers. Specifically, the C2 BBO Data Feed also includes expected opening price ("EOP") and expected opening size ("EOS") information that is disseminated prior to the opening of the market and during trading rotations (collectively, "EOP/EOS data"). EOP/EOS data is calculated by the C2 System based on resting orders in the Book that remain from the prior business day and any orders and quotes submitted before the opening.<sup>7</sup> The EOP is the price at which the greatest number of orders and quotes in the Book are expected to trade.<sup>8</sup> EOP/EOS data is not offered separate from the C2 BBO Data Feed.

##### **2. Statutory Basis**

The Exchange believes the proposed rule change is consistent with the

<sup>5</sup> The Exchange notes that MDX makes available to "Customers" the BBO data and last sale data that is included in the C2 BBO Data Feed no earlier than the time at which the Exchange sends that data to OPRA. A "Customer" is any entity that receives the C2 BBO Data Feed directly from MDX's system and then distributes it either internally or externally to Subscribers. A "Subscriber" is a person (other than an employee of a Customer) that receives the C2 BBO Data Feed from a Customer for its own internal use.

<sup>6</sup> An "Authorized User" is defined as an individual user (an individual human being) who is uniquely identified (by user ID and confidential password or other unambiguous method reasonably acceptable to MDX) and authorized by a Customer to access the C2 BBO Data Feed supplied by the Customer. A "Device" is defined as any computer, workstation or other item of equipment, fixed or portable, that receives, accesses and/or displays data in visual, audible or other form.

<sup>7</sup> See C2 Rule 6.11(a)(2). The Exchange has filed a separate proposed rule change to amend C2 Rule 6.11(a)(2) to provide that such pre-opening information will be disseminated to users that have elected to receive such information and to remove the existing reference to such pre-opening information being disseminated to Participants. The term "Participant" means a Permit Holder as defined in C2 Rule 1.1. See SR-C2-2013-002.

<sup>8</sup> Id.

provisions of Section 6 of the Securities Exchange Act of 1934 (the "Act")<sup>9</sup> in general and with Section 6(b)(5) of the Act<sup>10</sup> in particular in that it is designed to prevent fraudulent and manipulative acts and practices, promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in 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, and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

In adopting Regulation NMS, the Commission granted self-regulatory organizations and broker-dealers increased authority and flexibility to offer new and unique market data to the public. It was believed that this authority would expand the amount of data available to consumers, and also spur innovation and competition for the provision of market data. The Exchange believes that the proposed rule change is in keeping with those principles by promoting increased transparency through the dissemination of more useful proprietary data and also by clarifying its availability to market participants.

Additionally, the Exchange believes the proposed rule change would not permit unfair discrimination because the C2 BBO Data Feed, including EOP/EOS data, is made equally available by MDX to any market participant that wishes to subscribe to it. The Exchange notes that other exchanges make information relating to the market opening available to members and non-members.<sup>11</sup>

#### *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 that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange believes the C2 BBO Data Feed, including EOP/EOS data, offered

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

<sup>10</sup> 15 U.S.C. 78f(b)(4) and (5). [sic]

<sup>11</sup> See e.g., Securities Exchange Act Release No. 66967 (May 11, 2012), 77 FR 29440 (May 17, 2012) (SR-PHLX-2012-60); and Securities Exchange Act Release No. 67720 (August 23, 2012), 77 FR 52769 (August 30, 2012) (SR-NYSEARCA-2012-89). In addition, the Nasdaq Options Market ("NOM") disseminates certain pre-opening order imbalance information every five seconds for a period of time prior to the open and this information is made available via subscription. See NOM Chapter VI, Section 8(b)(1) and Chapter XV, Section 4(e); see also <http://www.nasdaqtrader.com/trader.aspx?id=openclose>.

by MDX will help attract new users and new order flow to the Exchange, thereby improving the Exchange's ability to compete in the market for options order flow and executions.

*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)<sup>12</sup> of the Act and Rule 19b-4(f)(6)<sup>13</sup> thereunder.

At any time within 60 days of the filing of this 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.

**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-C2-2013-001 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-C2-2013-001. 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 such filing also will be available for inspection and copying at the principal offices 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-C2-2013-001, and should be submitted on or before February 15, 2013.

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

**Kevin M. O'Neill,**

*Deputy Secretary.*

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**SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-68693; File No. SR-ISE-2013-04]

**Self-Regulatory Organizations; International Securities Exchange, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the Exchange's Obvious and Catastrophic Error Rule**

January 18, 2013.

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 January 8, 2013, the International Securities Exchange, LLC (the "Exchange" or the "ISE") filed with the Securities and

Exchange Commission ("Commission") the proposed rule change as described in Items I and II 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 Substance of the Proposed Rule Change**

The Exchange proposes to amend ISE Rule 720, Obvious and Catastrophic Errors, to address obvious and catastrophic errors involving complex orders. The text of the proposed rule change is available on the Exchange's Web site [www.ise.com](http://www.ise.com), at the principal office of the Exchange, 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 Item IV below. The self-regulatory organization 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 purpose of this proposed rule change is to amend ISE Rule 720 regarding Obvious and Catastrophic Errors to mitigate the risk to parties using complex orders, where part or all of a complex order traded at an erroneous price. Specifically, this proposed rule change addresses situations where one component (or leg) of a complex order is deemed an obvious (or catastrophic) error but the other component(s) is (are) not.

Complex orders are orders involving the simultaneous purchase and/or sale of two or more different options series in the same underlying security, for the same account, in a ratio that is equal to or greater than one-to-three (.333) and less than or equal to three-to-one (3.00) and for the purpose of executing a particular investment strategy.<sup>3</sup> With this proposed rule change, the Exchange is proposing to amend Rule 720 to

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

<sup>13</sup> 17 CFR 240.19b-4(f)(6).

<sup>14</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> See ISE Rule 722(a)(1).