

All submissions should refer to File Number SR–NYSECHX–2019–21. 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 website (<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 website viewing and printing in the Commission’s Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSECHX–2019–21 and should be submitted on or before December 17, 2019.

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

**Jill M. Peterson,**  
Assistant Secretary.

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–87577; File No. SR–OCC–2019–008]

### Self-Regulatory Organizations; the Options Clearing Corporation; Order Approving Proposed Rule Change To Establish a Regulatory Committee of the Options Clearing Corporation’s Board of Directors

November 20, 2019.

#### I. Introduction

On September 25, 2019, the Options Clearing Corporation (“OCC”) filed with

the Securities and Exchange Commission (“Commission”) the proposed rule change SR–OCC–2019–008 (“Proposed Rule Change”) pursuant to Section 19(b) of the Securities Exchange Act of 1934 (“Exchange Act”) <sup>1</sup> and Rule 19b–4 <sup>2</sup> thereunder to establish a new committee under OCC’s Board of Directors.<sup>3</sup> The Proposed Rule Change was published for public comment in the **Federal Register** on October 9, 2019.<sup>4</sup> The Commission has received no comments regarding the Proposed Rule Change. This order approves the Proposed Rule Change.

#### II. Background

OCC proposes to establish the OCC Regulatory Committee (“Committee”) and adopt the OCC Regulatory Committee Charter (“Committee Charter”). The Committee would be composed solely of members of OCC’s Board of Directors (“Board”). To facilitate the establishment of the Committee, OCC also proposes to amend Article III, Section 4 of the OCC By-Laws (“By-Laws”) and the OCC Board of Directors Charter and Corporate Governance Principles (“Board Charter”).

Specifically, OCC proposes to amend the Board Charter and Article III, Section 4 of OCC’s By-Laws to list the Committee alongside the other OCC Board committees. OCC also proposes to amend its By-Laws consistent with the Committee Charter regarding the delegation of authority from the Board to the Committee as well as the composition of the Committee. The Committee Charter would further define the scope of the Committee’s authority. For example, the Committee Charter would authorize the Committee to access OCC’s books, records, facilities and personnel and to hire specialists or rely upon other outside advisors.

Consistent with the charters of OCC’s other Board-level committees,<sup>5</sup> the Committee Charter would define the purpose and functions of the Committee and would set out requirements related to the composition and meetings of the Committee, which would, in part, relate to the governance arrangements supporting OCC’s compliance with its regulatory obligations. For example, in defining the Committee’s purpose, the Committee Charter would state that the

Board established the Committee to assist in overseeing OCC’s efforts to demonstrate compliance with its regulatory obligations. The functions and responsibilities with which the Committee would be charged under the Committee Charter would include (1) overseeing OCC management’s action plans to achieve compliance with any proposed new regulation; (2) meeting with regulators to discuss OCC’s efforts to enhance its regulatory compliance posture; (3) reviewing annual regulatory compliance reports provided by OCC management; and (4) reviewing documents related to examinations conducted by OCC’s regulators (e.g., examination report letters provided by regulators, responses to such letters from OCC). Regarding the composition and meetings of the Committee, the Committee would be composed of all OCC Public Directors, and the Committee would be obligated to meet at least quarterly and to maintain minutes of all Committee meetings.<sup>6</sup>

The proposed Committee Charter would also clearly describe direct lines of responsibility between the Committee and, as appropriate, either the Board or members of OCC’s management team. For example, the Committee Charter would require that the Committee make such reports to the Board as deemed necessary or advisable. The Committee Charter would also require that OCC’s Chief Compliance Officer (“CCO”), or one of his or her deputies if the CCO is unavailable, attend meetings of the Committee. Additionally, the Committee Charter would require the Committee to review its charter at least once every twelve months and submit the Committee Charter to the Board for approval.

#### III. Discussion and Commission Findings

Section 19(b)(2)(C) of the Exchange Act directs the Commission to approve a proposed rule change of a self-regulatory organization if it finds that such proposed rule change is consistent with the requirements of the Exchange Act and the rules and regulations thereunder applicable to such organization.<sup>7</sup> After carefully considering the Proposed Rule Change, the Commission finds that the proposal is consistent with the requirements of the Exchange Act and the rules and regulations thereunder applicable to OCC. More specifically, the Commission finds that the proposal is consistent

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

<sup>2</sup> 17 CFR 240.19b–4.

<sup>3</sup> See Notice of Filing *infra* note 4, at 84 FR 54240.

<sup>4</sup> Securities Exchange Act Release No. 87207 (Oct. 3, 2019), 84 FR 54239 (Oct. 9, 2019) (SR–OCC–2019–008) (“Notice of Filing”).

<sup>5</sup> See Securities Exchange Act Release 84473 (Oct. 23, 2019), 83 FR 54385 (Oct. 29, 2018) (SR–OCC–2018–012).

<sup>6</sup> The Committee Charter would permit the Committee’s Chair to determine whether to record minutes of any executive session called by the Committee.

<sup>7</sup> 15 U.S.C. 78s(b)(2)(C).

<sup>14</sup> 17 CFR 200.30–3(a)(12).

with Section 17A(b)(3)(F) of the Exchange Act<sup>8</sup> and Rule 17Ad–22(e)(2) thereunder.<sup>9</sup>

*A. Consistency With Section 17A(b)(3)(F) of the Exchange Act*

Section 17A(b)(3)(F) of the Exchange Act requires, among other things, that the rules of a clearing agency be designed to, in general, protect investors and the public interest.<sup>10</sup> Based on its review of the record, the Commission believes that the proposed changes are designed to, in general, protect investors and the public interest for the reasons set forth below.

The Committee, as described in the Proposed Rule Change, would be established to assist the Board in overseeing OCC's efforts to demonstrate compliance with its regulatory obligations. The Committee's responsibilities would include meeting with regulators as well as reviewing compliance reports and materials related to examinations conducted by OCC's regulators. Moreover, the Committee Charter and By-Laws would require that the Committee be composed of OCC's Public Directors. The Commission believes that establishing a Board-level committee for the purpose of overseeing OCC's efforts to demonstrate compliance with its regulatory obligations would help ensure that such efforts are being reviewed and overseen at appropriately senior levels within the organization, which in turn should enhance OCC's efforts to demonstrate compliance with its regulatory obligations.

Further, the proposed Committee Charter would clearly define the authority and function of the Committee. For example, the Committee Charter would provide the Committee with authority to (1) act on the behalf of the Board; (2) access OCC's books, records, facilitates and personnel; and (3) hire specialists or rely upon outside advisors. The authority described in the proposed Committee Charter would be consistent with the authority granted to OCC's other Board-level committees.<sup>11</sup> The Committee Charter would also clearly describe the Committee's obligations regarding meeting frequency, minutes, and reporting. Further, the Committee would be obligated to review the Committee Charter at least once every twelve months. Formally defining the Committee's characteristics in this

manner—consistent with the characteristics of OCC's other Board-level committees—should help ensure that the Committee is imbued with and sustains a level of attention and stature consistent with that of OCC's other Board-level committees, which in turn should enhance the Committee's ability to achieve its stated mission of supporting OCC's efforts to demonstrate compliance with its regulatory obligations.

The Commission believes generally that a clearing agency's compliance with the applicable securities laws protects investors and the public interest. As discussed above, the Commission believes that the Proposed Rule Change is designed to ensure that the Committee's work will be reviewed, supervised, and supported at the Board level, which in turn should enhance the Committee's ability to achieve its stated goal of supporting OCC's efforts to demonstrate compliance with its regulatory obligations. The Commission believes, therefore, that OCC's proposal to establish a Board-level Regulatory Committee is consistent with, in general, protecting investors and the public interest consistent with the requirements of Section 17A(b)(3)(F) of the Exchange Act.<sup>12</sup>

*B. Consistency With Rule 17Ad–22(e)(2) Under the Exchange Act*

Rule 17Ad–22(e)(2) under the Exchange Act requires that a covered clearing agency establish, implement, maintain, and enforce written policies and procedures reasonably designed to provide for governance arrangements that address certain criteria.<sup>13</sup> Rules 17Ad–22(e)(2)(i) and (v) under the Exchange Act require that such governance arrangements are clear and transparent and specify clear and direct lines of responsibility.<sup>14</sup> Further, the Commission has expressed the belief that policies and procedures specifying clear and direct lines of responsibility should generally entail documenting the responsibilities of the board of directors and senior management.<sup>15</sup>

As described above, OCC proposes amend its By-Laws and Board Charter to list the Committee among OCC's other Board-level committees and to specify the required composition of the Committee. Additionally, the Committee Charter would clearly define the authority and function of the

Committee. For example, the Committee Charter would provide the Committee with authority to (1) act on the behalf of the Board; (2) access OCC's books, records, facilitates and personnel; and (3) hire specialists or rely upon outside advisors. The Committee Charter would also obligate OCC's CCO, or one of his or her deputies if the CCO is unavailable, to attend meetings of the Committee. Moreover, the Committee Charter would obligate the Committee to review its charter at least once every twelve months and submit the Committee Charter to the Board for approval. The Commission believes, therefore, that the changes to OCC's By-Laws and Board Charter as well as the organizational aspects of the proposed Committee Charter are consistent with Exchange Act Rule 17Ad–22(e)(2)(i) and (v).<sup>16</sup>

Rule 17Ad–22(e)(2)(iii) under the Exchange Act requires, in part, that the governance arrangements required by Rule 17Ad–22(e)(2) support the public interest requirements in Section 17A of the Exchange Act applicable to clearing agencies.<sup>17</sup>

As described above, certain aspects of the Committee Charter relate to the governance of OCC's compliance with its regulatory obligations. For example, the Committee Charter would state that the Committee was established to assist the Board in overseeing OCC's efforts to demonstrate compliance with its regulatory obligations. The Committee's functions and responsibilities, as specified in the Committee Charter, would include meeting with regulators to discuss OCC's efforts to enhance its compliance posture and reviewing reports related to OCC's compliance posture (e.g., annual regulatory compliance reports provided by OCC management, final exam report letters from OCC's regulators, and OCC's response to regulatory examination letters). As discussed above, the Commission believes OCC's proposal to establish a Board-level Regulatory Committee is consistent with, in general, protecting investors and the public interest consistent with the requirements of Section 17A(b)(3)(F) of the Exchange Act.<sup>18</sup> The Commission believes, therefore, that the establishment of the Committee through a detailed charter document is consistent with Exchange Act Rule 17Ad–22(e)(2)(iii).<sup>19</sup>

<sup>8</sup> 15 U.S.C. 78q–1(b)(3)(F).

<sup>9</sup> 17 CFR 240.17Ad–22(e)(2).

<sup>10</sup> 15 U.S.C. 78q–1(b)(3)(F).

<sup>11</sup> See Securities Exchange Act Release 84473 (Oct. 23, 2019), 83 FR 54385 (Oct. 29, 2018) (SR–OCC–2018–012).

<sup>12</sup> 15 U.S.C. 78q–1(b)(3)(F).

<sup>13</sup> 17 CFR 240.17Ad–22(e)(2).

<sup>14</sup> 17 CFR 240.17Ad–22(e)(2)(i) and 17 CFR 240.17Ad–22(e)(2)(v).

<sup>15</sup> See Securities Exchange Act Release No. 78961 (Sep. 28, 2016), 81 FR 70786, 70804 (Oct. 13, 2016) (S7–03–14) (“Covered Clearing Agency Standards”).

<sup>16</sup> 17 CFR 240.17Ad–22(e)(2)(i) and 17 CFR 240.17Ad–22(e)(2)(v).

<sup>17</sup> 17 CFR 240.17Ad–22(e)(2)(iii).

<sup>18</sup> 15 U.S.C. 78q–1(b)(3)(F).

<sup>19</sup> 17 CFR 240.17Ad–22(e)(2)(iii).

#### IV. Conclusion

On the basis of the foregoing, the Commission finds that the Proposed Rule Change is consistent with the requirements of the Exchange Act, and in particular, the requirements of Section 17A of the Exchange Act<sup>20</sup> and the rules and regulations thereunder.

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Exchange Act,<sup>21</sup> that the Proposed Rule Change (SR–OCC–2019–008) be, and hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>22</sup>

**Jill M. Peterson,**

*Assistant Secretary.*

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#### SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–87578; File No. SR–IEX–2019–12]

#### Self-Regulatory Organizations; Investors Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the Table in Rule 11.410(a) To Update the Market Data Source That the Exchange Will Use To Determine the Top of Book Quotation for NYSE Chicago, Inc. and To Amend Rules 2.220(a)(7) and 11.410(a) To Reflect the Name Change of Chicago Stock Exchange, Inc. to NYSE Chicago, Inc.

November 20, 2019.

Pursuant to Section 19(b)(1)<sup>1</sup> of the Securities Exchange Act of 1934 (the “Act”)<sup>2</sup> and Rule 19b–4 thereunder,<sup>3</sup> notice is hereby given that, on November 15, 2019, the Investors Exchange LLC (“IEX” or the “Exchange”) filed with the Securities and Exchange Commission (the “Commission”) the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

<sup>20</sup> In approving this Proposed Rule Change, the Commission has considered the proposed rules’ impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

<sup>21</sup> 15 U.S.C. 78s(b)(2).

<sup>22</sup> 17 CFR 200.30–3(a)(12).

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

<sup>2</sup> 15 U.S.C. 78a.

<sup>3</sup> 17 CFR 240.19b–4.

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

Pursuant to the provisions of Section 19(b)(1) under the Act,<sup>4</sup> and Rule 19b–4 thereunder,<sup>5</sup> IEX is filing with the Commission a proposed rule change to amend the table in Rule 11.410(a) to update the market data source that the Exchange will use to determine the Top of Book<sup>6</sup> quotation for NYSE Chicago, Inc. (“XCHI”) and to amend Rules 2.220(a)(7) and 11.410(a) to reflect the name change of Chicago Stock Exchange, Inc. to NYSE Chicago, Inc. The Exchange has designated this rule change as “non-controversial” under Section 19(b)(3)(A) of the Act<sup>7</sup> and provided the Commission with the notice required by Rule 19b–4(f)(6) thereunder.<sup>8</sup>

The text of the proposed rule change is available at the Exchange’s website at [www.iextrading.com](http://www.iextrading.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 the Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization 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 the Statutory Basis for, the Proposed Rule Change

###### 1. Purpose

The Exchange proposes to amend the table in IEX Rule 11.410(a) to update the market data source that the Exchange will use to determine the Top of Book quotation for NYSE Chicago, Inc. (“XCHI”) and to amend IEX Rules 2.220(a)(7) and 11.410(a) to reflect the name change of Chicago Stock Exchange, Inc. to NYSE Chicago, Inc.

Specifically, the Exchange proposes to amend and update the table in Rule 11.410(a) specifying the primary and secondary sources for XCHI as a result

<sup>4</sup> 15 U.S.C. 78s(b)(1).

<sup>5</sup> 17 CFR 240.19b–4.

<sup>6</sup> See IEX Rule 11.410(a)(1).

<sup>7</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>8</sup> 17 CFR 240.19b–4.

of XCHI’s establishment of NYSE Chicago BBO, NYSE Chicago Trades and NYSE Chicago Integrated Feed (“NYSE Chicago Market Data Feeds” or “direct feeds”).<sup>9</sup> As specified in Rule 11.410(a)(2), the Exchange uses market data from each away trading center that produces a Protected Quotation<sup>10</sup> to determine its Top of Book quotation, as well as the NBBO<sup>11</sup> for certain reporting, regulatory and compliance systems within IEX. As proposed, the Exchange will use securities information processor (“SIP”) data, *i.e.*, CQS SIP data for securities reported under the Consolidated Quotation Services and Consolidated Tape Association plans and UQDF SIP data for securities reported under the Nasdaq Unlisted Trading Privileges national market system plan, to determine XCHI Top of Book quotes. No secondary source is proposed to be specified as SIP data will be used exclusively. While the Exchange uses proprietary market data feeds to determine the Protected Quotations of all but one of the other away markets,<sup>12</sup> as specified in Rule 11.410, it has determined to utilize the SIP quote feeds for XCHI because the Exchange is in the process of implementing technology changes to support use of the NYSE Chicago Market Data Feeds. Once these changes are complete, IEX will file a rule change under Section 19(b) of the Act and Rule 19b–4 thereunder to amend relevant portions of Rule 11.410 once these steps are complete, to again specify that the Exchange will use XCHI’s direct feeds as the primary source of XCHI’s Protected Quotations.<sup>13</sup> The Exchange notes that it is not necessary to utilize the XCHI direct feed in order to determine XCHI Top of Book quotes and thereby enable the Exchange to comply with applicable requirements of Regulation NMS with respect to its Top of Book quotes. The Exchange also notes that other exchanges also use SIP market data feeds to determine Top of Book quotes for some away markets, including XCHI, pursuant to effective rule filings.<sup>14</sup>

The Exchange is also proposing a conforming change to Rule 11.410(a)(2) to reflect that, as proposed, the Exchange will not use proprietary market data feeds as the primary source

<sup>9</sup> See Securities Exchange Act Release No. 87389 (October 23, 2019), 84 FR 57904 (October 29, 2019) (SR–NYSECHX–2019–15).

<sup>10</sup> See IEX Rule 1.160(bb).

<sup>11</sup> See IEX Rule 1.160(u).

<sup>12</sup> The Exchange uses CQS/UQDF SIP data as the exclusive source of market data for NYSE National (XCIS). See IEX Rule 11.410(a).

<sup>13</sup> See *supra* note 5[*sic*].

<sup>14</sup> See, *e.g.*, Nasdaq Stock Market Rule 4759(a).