

## OMB APPROVAL

OMB Number: 3235-0045  
 Estimated average burden  
 hours per response.....38

Required fields are shown with yellow backgrounds and asterisks.

Page 1 of * <input style="width: 40px;" type="text" value="37"/>	SECURITIES AND EXCHANGE COMMISSION WASHINGTON, D.C. 20549 Form 19b-4	File No.* SR - <input style="width: 40px;" type="text" value="2017"/> - * <input style="width: 40px;" type="text" value="030"/> Amendment No. (req. for Amendments *) <input style="width: 60px;" type="text"/>
Filing by Cboe C2 Exchange, Inc. Pursuant to Rule 19b-4 under the Securities Exchange Act of 1934		
Initial * <input checked="" type="checkbox"/> Amendment * <input type="checkbox"/> Withdrawal <input type="checkbox"/> Pilot <input type="checkbox"/> Extension of Time Period for Commission Action * <input type="checkbox"/> Date Expires * <input style="width: 80px;" type="text"/>	Section 19(b)(2) * <input checked="" type="checkbox"/> Section 19(b)(3)(A) * <input type="checkbox"/> Section 19(b)(3)(B) * <input type="checkbox"/> <div style="text-align: center; margin-top: 5px;">Rule</div> <div style="display: flex; justify-content: space-between;"> <div style="width: 45%;"> <input type="checkbox"/> 19b-4(f)(1)  <input type="checkbox"/> 19b-4(f)(2)  <input type="checkbox"/> 19b-4(f)(3)         </div> <div style="width: 45%;"> <input type="checkbox"/> 19b-4(f)(4)  <input type="checkbox"/> 19b-4(f)(5)  <input type="checkbox"/> 19b-4(f)(6)         </div> </div>	
Notice of proposed change pursuant to the Payment, Clearing, and Settlement Act of 2010 Section 806(e)(1) * <input type="checkbox"/> Section 806(e)(2) * <input type="checkbox"/>		Security-Based Swap Submission pursuant to the Securities Exchange Act of 1934 Section 3C(b)(2) * <input type="checkbox"/>
Exhibit 2 Sent As Paper Document <input type="checkbox"/> Exhibit 3 Sent As Paper Document <input type="checkbox"/>		
<b>Description</b> Provide a brief description of the action (limit 250 characters, required when Initial is checked *). <div style="border: 1px solid black; height: 40px; margin-top: 10px; padding: 5px;">           Proposed rule change to amend the Exchange's governance documents.         </div>		
<b>Contact Information</b> Provide the name, telephone number, and e-mail address of the person on the staff of the self-regulatory organization prepared to respond to questions and comments on the action.		
First Name * <input style="width: 240px;" type="text" value="Corinne"/> Last Name * <input style="width: 240px;" type="text" value="Klott"/> Title * <input style="width: 560px;" type="text" value="Senior Counsel"/> E-mail * <input style="width: 560px;" type="text" value="klott@cboe.com"/> Telephone * <input style="width: 100px;" type="text" value="(312) 786-7793"/> Fax <input style="width: 100px;" type="text"/>		
<b>Signature</b> Pursuant to the requirements of the Securities Exchange Act of 1934, has duly caused this filing to be signed on its behalf by the undersigned thereunto duly authorized. <div style="text-align: right; margin-right: 100px;">(Title *)</div> <div style="display: flex; justify-content: space-between; margin-top: 10px;"> <div style="width: 30%;">         Date <input style="width: 80px;" type="text" value="11/14/2017"/>          By <input style="width: 260px;" type="text" value="Corinne Klott"/>  <div style="text-align: center; font-size: small;">(Name *)</div> </div> <div style="width: 60%;"> <div style="border: 1px solid black; height: 40px; margin-bottom: 5px;"></div>         Attorney  <div style="border: 1px solid black; height: 40px; margin-top: 5px;"></div> </div> </div> <div style="margin-top: 10px;">         NOTE: Clicking the button at right will digitally sign and lock          this form. A digital signature is as legally binding as a physical          signature, and once signed, this form cannot be changed.       </div> <div style="text-align: center; margin-top: 10px;"> <input style="background-color: #cccccc; border: none; padding: 5px 20px;" type="button" value="klott@cboe.com"/> </div>		

SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, D.C. 20549

For complete Form 19b-4 instructions please refer to the EFFT website.

**Form 19b-4 Information \***

Add Remove View

The self-regulatory organization must provide all required information, presented in a clear and comprehensible manner, to enable the public to provide meaningful comment on the proposal and for the Commission to determine whether the proposal is consistent with the Act and applicable rules and regulations under the Act.

**Exhibit 1 - Notice of Proposed Rule Change \***

Add Remove View

The Notice section of this Form 19b-4 must comply with the guidelines for publication in the Federal Register as well as any requirements for electronic filing as published by the Commission (if applicable). The Office of the Federal Register (OFR) offers guidance on Federal Register publication requirements in the Federal Register Document Drafting Handbook, October 1998 Revision. For example, all references to the federal securities laws must include the corresponding cite to the United States Code in a footnote. All references to SEC rules must include the corresponding cite to the Code of Federal Regulations in a footnote. All references to Securities Exchange Act Releases must include the release number, release date, Federal Register cite, Federal Register date, and corresponding file number (e.g., SR-[SRO]-xx-xx). A material failure to comply with these guidelines will result in the proposed rule change being deemed not properly filed. See also Rule 0-3 under the Act (17 CFR 240.0-3)

**Exhibit 1A- Notice of Proposed Rule Change, Security-Based Swap Submission, or Advance Notice by Clearing Agencies \***

Add Remove View

The Notice section of this Form 19b-4 must comply with the guidelines for publication in the Federal Register as well as any requirements for electronic filing as published by the Commission (if applicable). The Office of the Federal Register (OFR) offers guidance on Federal Register publication requirements in the Federal Register Document Drafting Handbook, October 1998 Revision. For example, all references to the federal securities laws must include the corresponding cite to the United States Code in a footnote. All references to SEC rules must include the corresponding cite to the Code of Federal Regulations in a footnote. All references to Securities Exchange Act Releases must include the release number, release date, Federal Register cite, Federal Register date, and corresponding file number (e.g., SR-[SRO]-xx-xx). A material failure to comply with these guidelines will result in the proposed rule change, security-based swap submission, or advance notice being deemed not properly filed. See also Rule 0-3 under the Act (17 CFR 240.0-3)

**Exhibit 2 - Notices, Written Comments, Transcripts, Other Communications**

Add Remove View

Exhibit Sent As Paper Document

☐

Copies of notices, written comments, transcripts, other communications. If such documents cannot be filed electronically in accordance with Instruction F, they shall be filed in accordance with Instruction G.

**Exhibit 3 - Form, Report, or Questionnaire**

Add Remove View

Exhibit Sent As Paper Document

☐

Copies of any form, report, or questionnaire that the self-regulatory organization proposes to use to help implement or operate the proposed rule change, or that is referred to by the proposed rule change.

**Exhibit 4 - Marked Copies**

Add Remove View

The full text shall be marked, in any convenient manner, to indicate additions to and deletions from the immediately preceding filing. The purpose of Exhibit 4 is to permit the staff to identify immediately the changes made from the text of the rule with which it has been working.

**Exhibit 5 - Proposed Rule Text**

Add Remove View

The self-regulatory organization may choose to attach as Exhibit 5 proposed changes to rule text in place of providing it in Item I and which may otherwise be more easily readable if provided separately from Form 19b-4. Exhibit 5 shall be considered part of the proposed rule change.

**Partial Amendment**

Add Remove View

If the self-regulatory organization is amending only part of the text of a lengthy proposed rule change, it may, with the Commission's permission, file only those portions of the text of the proposed rule change in which changes are being made if the filing (i.e. partial amendment) is clearly understandable on its face. Such partial amendment shall be clearly identified and marked to show deletions and additions.

**Item 1.        Text of the Proposed Rule Change**

(a)     Cboe C2 Exchange, Inc. (the “Exchange” or “C2”) proposes to amend its governance documents with respect to changes relating to its director nomination and committee appointment process, its Nominating and Governance Committee and its Regulatory Oversight and Compliance Committee. The text of the proposed rule change is provided in Exhibit 5. Particularly, the text of the proposed amendments to the Exchange’s Ninth Amended and Restated Bylaws (“Bylaws”) is included in Exhibit 5A, the text of the proposed amendments to the Exchange’s Fifth Amended and Restated Certificate of Incorporation (“Certificate”) is included in Exhibit 5B.

(b)     Not applicable.

(c)     Not applicable.

**Item 2.        Procedures of the Self-Regulatory Organization**

(a)     C2’s Board of Directors approved the amendments to its Bylaws and Certificate of Incorporation set forth in this proposed rule change at its meeting on October 27, 2017. In addition, Cboe Global Markets, Inc. (“Cboe”), C2’s sole stockholder, approved the changes to the Certificate of Incorporation on October 27, 2017.

(b)     Please refer questions and comments on the proposed rule change to Joanne Moffic-Silver, (312) 786-7462, or Corinne Klott, (312) 786-7793, Cboe C2 Exchange, Inc., 400 South LaSalle, Chicago, Illinois 60605.

**Item 3.        Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change**

(a)     Purpose

The Exchange proposes to amend its Bylaws and Certificate. Specifically the Exchange proposes to eliminate its Nominating and Governance Committee (“N&G

Committee”), as well as amend the process by which (i) directors are elected, (ii) committee appointments are made and (iii) vacancies are filled. Additionally, the Exchange proposes to amend the name of the Regulatory Oversight and Compliance Committee (“ROCC”) and make other technical, non-substantive changes.

#### Elimination of Nominating and Governance Committee

##### (a) Nomination of Directors

By way of background, Section 4.3 of the Bylaws provides, among other things, that the Exchange N&G Committee shall consist of at least five directors that are majority Non-Industry Directors and are appointed by the Board on the recommendation of the N&G Committee. Section 4.3 of the Bylaws also provides that the N&G Committee shall have the authority to nominate individuals for election as directors of the Corporation and such other duties as prescribed by resolution of the Board.<sup>1</sup> Additionally, if the N&G Committee has two or more Industry Directors, those Industry Directors shall act as the Representative Director Nominating Body, which body is responsible for the nomination of the Representative Directors. If however, there are less than two Industry Directors on the N&G Committee, then the Trading Permit Holder Subcommittee of the Advisory Board shall act as the Representative Director Nominating Body.<sup>2</sup> The N&G Committee is bound to accept and nominate the Representative Director nominees recommended by the Representative Director Nominating Body or, in the event of a petition candidate, the Representative Director nominees who receive the most votes

---

<sup>1</sup> Article Fifth, subparagraph (c) of the Certificate also provides that the N&G Committee nominates persons for election as directors.

<sup>2</sup> See Sections 1.1(k) and 4.3 of the Bylaws. Section 3.2 of the Bylaws sets forth a detailed process for the nomination and selection of fair representation directors for the Board of Directors.

pursuant to a Run-off Election.<sup>3</sup> Pursuant to Section 3.1 of the Bylaws, the N&G Committee is also responsible for determining whether a director candidate satisfies the applicable qualifications for election as a director, and the decision of the N&G Committee, subject to review, if any, by the Board, is final.

The Exchange first proposes to eliminate its N&G Committee and amend the process by which Directors are nominated and elected. Specifically, the Exchange proposes to provide that the sole stockholder of the exchange shall nominate and elect directors for nomination at the annual meeting of the stockholder, except with respect to fair-representation directors (“Representative Directors”) as described below. The Exchange notes that another Exchange similarly does not maintain an exchange-level nominating committee and instead provides that the sole stockholder of the Exchange nominates and elects their non-fair representation Directors.<sup>4</sup> With respect to the nomination of Representative Directors, the Exchange proposes to amend the definition of “Representative Director Nominating Body” and provide that if the Board has two or more Industry Directors, excluding directors that are exchange employees, those Industry Directors shall act as the Representative Director Nominating Body. Additionally, similar to today’s practice, if there are less than two Industry Directors on the Board (excluding directors that are employees of the Exchange), then the Trading Permit Holder Subcommittee of the Advisory Board shall act as the Representative Director Nominating Body. The Bylaws and Certificate will also be amended to provide that the sole stockholder is bound to nominate and elect the Representative Directors nominees

---

<sup>3</sup> See Sections 3.1 and 3.2 of the Bylaws and Article Fifth, subparagraph (c) of the Certificate.

<sup>4</sup> See Section 3.02 of the Amended and Restated NYSE Arca, Inc. Bylaws.

recommended by the Representative Director Nominating Body or, in the event of a petition candidate, the Representative Director nominees who receive the most votes pursuant to a Run-off Election. Lastly, as the N&G Committee is being eliminated, the Exchange proposes to amend Section 3.1 of the Bylaws to provide that the Board, instead of the N&G Committee, is responsible for determining whether a director candidate satisfies the applicable qualifications for election as a director, and the decision of the Board, is final. There are no other changes with respect to the process for the nomination and selection of Representative Directors. The Exchange notes that it believes that the proposed changes continue to give Exchange members a voice in the Exchange's use of self-regulatory authority.

(b) Committee Appointments

The N&G Committee is also currently responsible for recommending to the Board of Directors appointments to certain Committees. Specifically, Section 4.2 and Section 6.1 of the Bylaws provides that the members of the Executive Committee and Advisory Board, respectively, be recommended by the N&G Committee for approval by the Board. Pursuant to Section 4.4 of the Bylaws, members of the ROCC are recommended by the Non-Industry Directors on the N&G Committee for approval by the Board.

In light of the elimination of the N&G Committee, the Exchange proposes to eliminate references to the N&G Committee with respect to committee appointments and transfer the N&G's current authority to the Board (or appropriate subcommittee of the Board). Specifically the Exchange proposes that members of the Executive Committee and Advisory Board be appointed by the Board and members of the ROCC be appointed

by the Board on the recommendation of the Non-Industry Directors of the Board. The Exchange notes that Boards of other Exchanges also have authority to appoint Board Committees.<sup>5</sup>

#### Filling of Director Vacancies

Next, the Exchange proposes to amend the process to fill Director vacancies. Currently, Sections 3.4 of the Bylaws provides that in the event any Industry Director or Non-Industry Director fails to maintain the qualifications required for such category of director, his office shall become vacant and the vacancy may be filled by the Board with a person who qualifies for the category in which the vacancy exists. If a director is determined to have requalified, Section 3.4 provides the Board, in its sole discretion, may fill an existing vacancy in the Board or may increase the size of the Board, as necessary, to appoint such director to the Board; provided, however, that the Board shall be under no obligation to return such director to the Board.

Section 3.5 of the Bylaws also provides that a vacancy on the Board may be filled by a vote of majority of the Directors then in office, or by the sole remaining Director, so long as the elected Director qualifies for the position. Additionally, for vacancies of Representative Directors, the Representative Director Nominating Body will recommend an individual to be elected, or provide a list of recommended individuals, and the position shall be filled by the vote of a majority of the Directors then in office. Consistent with the proposal to have the sole stockholder nominate and elect directors to the Board (and to be bound to accept and elect the Representative Director Nominating

---

<sup>5</sup> See e.g., Eleventh Amended and Restated Operating Agreement of New York Stock Exchange, LLC, Section 2.03(h) and By-Laws of Nasdaq Phlx LLC, Section 5-3.

Body's nominee(s)), the Exchange wishes to provide that the sole stockholder, instead of the Board, will also have the ability to fill the above described Director vacancies.

#### Regulatory Oversight and Compliance Committee Changes

The Exchange proposes to change the name of the "Regulatory Oversight and Compliance Committee" ("ROCC") to the "Regulatory Oversight Committee" ("ROC"). The Exchange notes that there may be overlap and duplication of reports from the Compliance Department to the parent company Audit Committee and the Exchange ROCC. To address this issue, going forward, the Cboe Global Markets Audit Committee will be the "go to" Board committee for reports from the Chief Compliance Officer ("CCO") related to compliance matters. As such, the Exchange proposes to drop the reference of "Compliance" in "ROCC" in the Bylaws. The Exchange notes that the reporting function of the CCO to the ROC will be permissive. The Exchange also notes that the regulatory oversight committees of its affiliated exchanges does not use the term "Compliance" in their Committees' name.<sup>6</sup>

#### Technical, Non-Substantive Changes

Lastly, the Exchange proposes to change the Exchange's name in the title and signature line in its Certificate from "C2 Options Exchange, Incorporated" to "Cboe C2 Exchange, Inc." The Exchange notes that it recently changed its legal name, but was unable to update the Exchange's name in the title or signature line in its Certificate as the name changes were not effective until the Exchange, as previously named, filed the proposed changes in Delaware. The Exchange had noted in the filing that proposed the name changes that it would later amend the Certificate to reflect the new name in the title

---

<sup>6</sup> See Section 4.4 of the Bylaws of Cboe BYX Exchange, Inc., Cboe BZX Exchange, Inc., Cboe EDGA Exchange, Inc. and Cboe EDGX Exchange, Inc.



and signature line and the Exchange is seeking to do so now. Pursuant to Delaware law, the Exchange is also adding a reference to its original name in the introductory paragraph of the Certificate.<sup>7</sup>

(b) 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>8</sup> Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)<sup>9</sup> 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. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)<sup>10</sup> requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers. The Exchange also believes that its proposal is consistent with Section 6(b) of the Act in general, and furthers the objectives of Section 6(b)(1) of the Act in particular, in that it enables the Exchange to be so organized as to have the capacity to be able to carry out the purposes

---

<sup>7</sup> See Section 245(c) of the Delaware General Corporation Law (DGCL).

<sup>8</sup> 15 U.S.C. 78f(b).

<sup>9</sup> 15 U.S.C. 78f(b)(5).

<sup>10</sup> Id.

of the Act and to comply, and to enforce compliance by its exchange members and persons associated with its exchange members, with the provisions of the Act, the rules and regulations thereunder, and the rules of the Exchange. The Exchange also believes that this proposal furthers the objectives of Section 6(b)(3)<sup>11</sup> of the Act in particular, in that it is designed to assure a fair representation of Exchange Members in the selection of its directors and administration of its affairs and provide that one or more directors would be representative of issuers and investors and not be associated with a member of the exchange, broker, or dealer. For instance, the proposed changes continue to include a process by which Exchange members can directly petition and vote for representation on the Board.

The Exchange believes eliminating the exchange-level N&G Committee allows the Exchange to eliminate a board committee whose core responsibilities can be adequately handled by its sole stockholder or Board, as applicable. The Exchange believes the elimination of this board committee will streamline, make more efficient, and improve the Exchange's governance structure and allow directors of the Exchange to continue to focus their attention on matters within the purview of the Exchange's board including its orderly discharge of regulatory duties 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. The

---

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

Exchange also notes that it is not statutorily required to maintain a standing nominating committee. Indeed, another Exchange similarly does not do so and instead provides that its sole stockholder nominates and elects its non-fair representation directors.<sup>12</sup> Other Exchanges also provide that their Board, without input from a nominating committee, appoint members to committees.<sup>13</sup> The Exchange also believes that since it is being proposed that the sole stockholder have the authority to nominate (and elect) directors to the Board (and accept and elect Representative Director nominees), it is also consistent to transfer the authority to fill director vacancies from the Board to the sole stockholder.

The Exchange importantly notes that it is not proposing to amend any of the compositional requirements currently set forth in the Bylaws and that notwithstanding the proposed changes, existing compositional requirements of the Exchange will still be required to be satisfied, including the provision relating to the fair representation of members. While the delegation of the authority relating to the (i) nomination and election of directors, (ii) nominating body for Representative Directors, (iii) filling of Director vacancies and (iv) appointment of committees is being modified, the substantive practices of the Exchange will remain the same. For example, the sole stockholder will be bound to nominate and elect the Representative Directors nominees recommended by the Representative Director Nominating Body or, in the event of a petition candidate, the Representative Director nominees who receive the most votes pursuant to a Run-off Election.

---

<sup>12</sup> See Section 3.02 of the Amended and Restated NYSE Arca, Inc. Bylaws.

<sup>13</sup> See e.g., Eleventh Amended and Restated Operating Agreement of New York Stock Exchange, LLC, Section 2.03(h) and By-Laws of Nasdaq Phlx LLC, Section 5-3.

The Exchange believes eliminating the reference to “Compliance” in the ROCC’s name is appropriate and will reduce potential confusion given that the CCO is no longer required to (but may) report to the ROCC. The Exchange notes that the new name is also consistent with the name of the regulatory oversight committee of its affiliated exchanges.<sup>14</sup> Lastly, the Exchange believes updating the Exchange’s name in the title and signature line of its Certificate and adding a reference to its original name in the introductory paragraph of the Certificate, allows the Exchange to comply with Delaware law and reduce potential confusion. The alleviation of confusion removes impediments to, and perfects the mechanism for a free and open market and a national market system, and, in general, protects investors and the public interest of market participants.

The Exchange believes the proposed changes do not affect the meaning, administration, or enforcement of any rules of the Exchange or the rights, obligations, or privileges of Exchange members or their associated persons in any way.

**Item 4. Self-Regulatory Organization’s Statement on Burden on Competition**

The Exchange does not believe the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change relates to the corporate governance of the Exchange and not the operations of the Exchange. This is not a competitive filing and, therefore, imposes no burden on competition.

---

<sup>14</sup> See Section 4.4 of the Bylaws of Cboe BYX Exchange, Inc., Cboe BZX Exchange, Inc., Cboe EDGA Exchange, Inc. and Cboe EDGX Exchange, Inc.

**Item 5. 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.

**Item 6. Extension of Time Period for Commission Action**

C2 does not consent to an extension of the time period for Securities and Exchange Commission (the “Commission”) action on the proposed rule change specified in Section 19(b)(2) of the Act.<sup>15</sup>

**Item 7. Basis for Summary Effectiveness Pursuant to Section 19(b)(3) or for Accelerated Effectiveness Pursuant to Section 19(b)(2) or Section 19(b)(7)(D)**

(a) Not applicable.

(b) Not applicable.

(c) Not applicable.

(d) The proposed rule change is filed for accelerated effectiveness pursuant to Section 19(b)(2) of the Act.<sup>16</sup> The Exchange requests that the Commission approve the proposed rule change on an accelerated basis pursuant to Section 19(b)(2) of the Act so that it may be operative as soon as practicable. The Exchange notes that it would like to have the proposed provisions operative in time for its upcoming Board meeting on December 19, 2017. The Exchange notes that the proposed changes do not raise any novel regulatory issues. Particularly, as discussed above, other exchanges do not have standing nominating committees, allow their sole stockholder to nominate and elect directors, allow their Board to appoint committee members and name their regulatory

---

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

<sup>16</sup> 15 U.S.C. 78s(b)(2).

oversight committee “ROC”. The Exchange also notes that the proposed changes do not amend any of the compositional requirements currently set forth in the Bylaws and that existing compositional requirements of the Exchange will still be required to be satisfied, including the provisions relating to the fair representation of members. Lastly the Exchange note that it does not believe the proposed changes affect the meaning, or enforcement of any rules of the Exchange or the rights, obligations, or privileges of Exchange members or their associated persons in any way.

**Item 8. Proposed Rule Change Based on Rules of Another Self-Regulatory Organization or of the Commission**

The proposed rule change to provide that the sole stockholder of the Exchange nominates and elects the non-fair representation Directors is similar to a relevant Bylaw provision of another exchange, particularly, Section 3.02 of the Amended and Restated NYSE Arca, Inc. Bylaws. The proposed rule change to eliminate the exchange-level Nominating and Governance Committee is also consistent with another Exchange’s committee structure. Particularly, NYSE Arca does not maintain an exchange-level nominating committee.<sup>17</sup>

The proposed rule change to amend the name of the ROCC is consistent with the name of the regulatory oversight committee of other exchanges, including Cboe BYX Exchange, Inc., Cboe BZX Exchange, Inc., Cboe EDGX Exchange, Inc. and Cboe EDGA Exchange, Inc.<sup>18</sup>

---

<sup>17</sup> See Amended and Restated NYSE Arca, Inc. Bylaws.

<sup>18</sup> See Section 4.4 of the Bylaws of Cboe BYX Exchange, Inc., Cboe BZX Exchange, Inc., Cboe EDGA Exchange, Inc. and Cboe EDGX Exchange, Inc.

Lastly, the proposed change to provide that the Exchange Board will appoint members to committees without input from a nominating committee is consistent with the process used at other exchanges including NYSE and Nasdaq Phlx.<sup>19</sup>

**Item 9.        Security-Based Swap Submissions Filed Pursuant to Section 3C of the Act**

Not applicable.

**Item 10.      Advance Notices Filed Pursuant to Section 806(e) of the Payment, Clearing and Settlement Supervision Act**

Not applicable.

**Item 11.      Exhibits**

Exhibit 1.      Completed Notice of Proposed Rule Change for publication in the Federal Register.

Exhibit 5.      Proposed rule text

A.      Exchange Bylaws.

B.      Exchange Certificate.

---

<sup>19</sup>      See e.g., Eleventh Amended and Restated Operating Agreement of New York Stock Exchange, LLC, Section 2.03(h) and By-Laws of Nasdaq Phlx LLC, Section 5-3.

EXHIBIT 1

**SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34- ; File No. SR-C2-2017-030]

[Insert date]

Self-Regulatory Organizations; Cboe C2 Exchange, Inc.; Notice of Filing of a Proposed Rule Change Relating to its Nominating and Governance Committee and Regulatory Oversight and Compliance Committee

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 [insert date], Cboe C2 Exchange, Inc. (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 Substance of the Proposed Rule Change**

The Exchange proposes to amend its governance documents with respect to changes relating to its director nomination and committee appointment process, its Nominating and Governance Committee and its Regulatory Oversight and Compliance Committee.

The text of the proposed rule change is also available on the Exchange’s website (<http://www.c2exchange.com/Legal/>), at the Exchange’s Office of the Secretary, and at the Commission’s Public Reference Room.

---

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

<sup>2</sup> 17 CFR 240.19b-4.



## **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 proposes to amend its Bylaws and Certificate. Specifically the Exchange proposes to eliminate its Nominating and Governance Committee ("N&G Committee"), as well as amend the process by which (i) directors are elected, (ii) committee appointments are made and (iii) vacancies are filled. Additionally, the Exchange proposes to amend the name of the Regulatory Oversight and Compliance Committee ("ROCC") and make other technical, non-substantive changes.

#### **Elimination of Nominating and Governance Committee**

##### **(a) Nomination of Directors**

By way of background, Section 4.3 of the Bylaws provides, among other things, that the Exchange N&G Committee shall consist of at least five directors that are majority Non-Industry Directors and are appointed by the Board on the recommendation of the N&G Committee. Section 4.3 of the Bylaws also provides that the N&G Committee shall have the authority to nominate individuals for election as directors of the

Corporation and such other duties as prescribed by resolution of the Board.<sup>3</sup> Additionally, if the N&G Committee has two or more Industry Directors, those Industry Directors shall act as the Representative Director Nominating Body, which body is responsible for the nomination of the Representative Directors. If however, there are less than two Industry Directors on the N&G Committee, then the Trading Permit Holder Subcommittee of the Advisory Board shall act as the Representative Director Nominating Body.<sup>4</sup> The N&G Committee is bound to accept and nominate the Representative Director nominees recommended by the Representative Director Nominating Body or, in the event of a petition candidate, the Representative Director nominees who receive the most votes pursuant to a Run-off Election.<sup>5</sup> Pursuant to Section 3.1 of the Bylaws, the N&G Committee is also responsible for determining whether a director candidate satisfies the applicable qualifications for election as a director, and the decision of the N&G Committee, subject to review, if any, by the Board, is final.

The Exchange first proposes to eliminate its N&G Committee and amend the process by which Directors are nominated and elected. Specifically, the Exchange proposes to provide that the sole stockholder of the exchange shall nominate and elect directors for nomination at the annual meeting of the stockholder, except with respect to fair-representation directors (“Representative Directors”) as described below. The Exchange notes that another Exchange similarly does not maintain an exchange-level

---

<sup>3</sup> Article Fifth, subparagraph (c) of the Certificate also provides that the N&G Committee nominates persons for election as directors.

<sup>4</sup> See Sections 1.1(k) and 4.3 of the Bylaws. Section 3.2 of the Bylaws sets forth a detailed process for the nomination and selection of fair representation directors for the Board of Directors.

<sup>5</sup> See Sections 3.1 and 3.2 of the Bylaws and Article Fifth, subparagraph (c) of the Certificate.

nominating committee and instead provides that the sole stockholder of the Exchange nominates and elects their non-fair representation Directors.<sup>6</sup> With respect to the nomination of Representative Directors, the Exchange proposes to amend the definition of “Representative Director Nominating Body” and provide that if the Board has two or more Industry Directors, excluding directors that are exchange employees, those Industry Directors shall act as the Representative Director Nominating Body. Additionally, similar to today’s practice, if there are less than two Industry Directors on the Board (excluding directors that are employees of the Exchange), then the Trading Permit Holder Subcommittee of the Advisory Board shall act as the Representative Director Nominating Body. The Bylaws and Certificate will also be amended to provide that the sole stockholder is bound to nominate and elect the Representative Directors nominees recommended by the Representative Director Nominating Body or, in the event of a petition candidate, the Representative Director nominees who receive the most votes pursuant to a Run-off Election. Lastly, as the N&G Committee is being eliminated, the Exchange proposes to amend Section 3.1 of the Bylaws to provide that the Board, instead of the N&G Committee, is responsible for determining whether a director candidate satisfies the applicable qualifications for election as a director, and the decision of the Board, is final. There are no other changes with respect to the process for the nomination and selection of Representative Directors. The Exchange notes that it believes that the proposed changes continue to give Exchange members a voice in the Exchange’s use of self-regulatory authority.

(b) Committee Appointments

---

<sup>6</sup> See Section 3.02 of the Amended and Restated NYSE Arca, Inc. Bylaws.

The N&G Committee is also currently responsible for recommending to the Board of Directors appointments to certain Committees. Specifically, Section 4.2 and Section 6.1 of the Bylaws provides that the members of the Executive Committee and Advisory Board, respectively, be recommended by the N&G Committee for approval by the Board. Pursuant to Section 4.4 of the Bylaws, members of the ROCC are recommended by the Non-Industry Directors on the N&G Committee for approval by the Board.

In light of the elimination of the N&G Committee, the Exchange proposes to eliminate references to the N&G Committee with respect to committee appointments and transfer the N&G's current authority to the Board (or appropriate subcommittee of the Board). Specifically the Exchange proposes that members of the Executive Committee and Advisory Board be appointed by the Board and members of the ROCC be appointed by the Board on the recommendation of the Non-Industry Directors of the Board. The Exchange notes that Boards of other Exchanges also have authority to appoint Board Committees.<sup>7</sup>

#### Filling of Director Vacancies

Next, the Exchange proposes to amend the process to fill Director vacancies. Currently, Sections 3.4 of the Bylaws provides that in the event any Industry Director or Non-Industry Director fails to maintain the qualifications required for such category of director, his office shall become vacant and the vacancy may be filled by the Board with a person who qualifies for the category in which the vacancy exists. If a director is

---

<sup>7</sup> See e.g., Eleventh Amended and Restated Operating Agreement of New York Stock Exchange, LLC, Section 2.03(h) and By-Laws of Nasdaq Phlx LLC, Section 5-3.

determined to have requalified, Section 3.4 provides the Board, in its sole discretion, may fill an existing vacancy in the Board or may increase the size of the Board, as necessary, to appoint such director to the Board; provided, however, that the Board shall be under no obligation to return such director to the Board.

Section 3.5 of the Bylaws also provides that a vacancy on the Board may be filled by a vote of majority of the Directors then in office, or by the sole remaining Director, so long as the elected Director qualifies for the position. Additionally, for vacancies of Representative Directors, the Representative Director Nominating Body will recommend an individual to be elected, or provide a list of recommended individuals, and the position shall be filled by the vote of a majority of the Directors then in office. Consistent with the proposal to have the sole stockholder nominate and elect directors to the Board (and to be bound to accept and elect the Representative Director Nominating Body's nominee(s)), the Exchange wishes to provide that the sole stockholder, instead of the Board, will also have the ability to fill the above described Director vacancies.

#### Regulatory Oversight and Compliance Committee Changes

The Exchange proposes to change the name of the "Regulatory Oversight and Compliance Committee" ("ROCC") to the "Regulatory Oversight Committee" ("ROC"). The Exchange notes that there may be overlap and duplication of reports from the Compliance Department to the parent company Audit Committee and the Exchange ROCC. To address this issue, going forward, the Cboe Global Markets Audit Committee will be the "go to" Board committee for reports from the Chief Compliance Officer ("CCO") related to compliance matters. As such, the Exchange proposes to drop the reference of "Compliance" in "ROCC" in the Bylaws. The Exchange notes that the

reporting function of the CCO to the ROC will be permissive. The Exchange also notes that the regulatory oversight committees of its affiliated exchanges does not use the term “Compliance” in their Committees’ name.<sup>8</sup>

#### Technical, Non-Substantive Changes

Lastly, the Exchange proposes to change the Exchange’s name in the title and signature line in its Certificate from “C2 Options Exchange, Incorporated” to Cboe C2 Exchange, Inc.” The Exchange notes that it recently changed its legal name, but was unable to update the Exchange’s name in the title or signature line in its Certificate as the name changes were not effective until the Exchange, as previously named, filed the proposed changes in Delaware. The Exchange had noted in the filing that proposed the name changes that it would later amend the Certificate to reflect the new name in the title and signature line and the Exchange is seeking to do so now. Pursuant to Delaware law, the Exchange is also adding a reference to its original name in the introductory paragraph of the Certificate.<sup>9</sup>

#### 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>10</sup> Specifically, the Exchange believes the proposed rule change is consistent with the

---

<sup>8</sup> See Section 4.4 of the Bylaws of Cboe BYX Exchange, Inc., Cboe BZX Exchange, Inc., Cboe EDGA Exchange, Inc. and Cboe EDGX Exchange, Inc.

<sup>9</sup> See Section 245(c) of the Delaware General Corporation Law (DGCL).

<sup>10</sup> 15 U.S.C. 78f(b).

Section 6(b)(5)<sup>11</sup> 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. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)<sup>12</sup> requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers. The Exchange also believes that its proposal is consistent with Section 6(b) of the Act in general, and furthers the objectives of Section 6(b)(1) of the Act in particular, in that it enables the Exchange to be so organized as to have the capacity to be able to carry out the purposes of the Act and to comply, and to enforce compliance by its exchange members and persons associated with its exchange members, with the provisions of the Act, the rules and regulations thereunder, and the rules of the Exchange. The Exchange also believes that this proposal furthers the objectives of Section 6(b)(3)<sup>13</sup> of the Act in particular, in that it is designed to assure a fair representation of Exchange Members in the selection of its directors and administration of its affairs and provide that one or more directors would be representative of issuers and investors and not be associated with a member of the exchange, broker, or dealer. For instance, the proposed changes continue to include a

---

<sup>11</sup> 15 U.S.C. 78f(b)(5).

<sup>12</sup> Id.

<sup>13</sup> 15 U.S.C. 78f(b)(3).

process by which Exchange members can directly petition and vote for representation on the Board.

The Exchange believes eliminating the exchange-level N&G Committee allows the Exchange to eliminate a board committee whose core responsibilities can be adequately handled by its sole stockholder or Board, as applicable. The Exchange believes the elimination of this board committee will streamline, make more efficient, and improve the Exchange's governance structure and allow directors of the Exchange to continue to focus their attention on matters within the purview of the Exchange's board including its orderly discharge of regulatory duties 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. The Exchange also notes that it is not statutorily required to maintain a standing nominating committee. Indeed, another Exchange similarly does not do so and instead provides that its sole stockholder nominates and elects its non-fair representation directors.<sup>14</sup> Other Exchanges also provide that their Board, without input from a nominating committee, appoint members to committees.<sup>15</sup> The Exchange also believes that since it is being proposed that the sole stockholder have the authority to nominate (and elect) directors to

---

<sup>14</sup> See Section 3.02 of the Amended and Restated NYSE Arca, Inc. Bylaws.

<sup>15</sup> See e.g., Eleventh Amended and Restated Operating Agreement of New York Stock Exchange, LLC, Section 2.03(h) and By-Laws of Nasdaq Phlx LLC, Section 5-3.



the Board (and accept and elect Representative Director nominees), it is also consistent to transfer the authority to fill director vacancies from the Board to the sole stockholder.

The Exchange importantly notes that it is not proposing to amend any of the compositional requirements currently set forth in the Bylaws and that notwithstanding the proposed changes, existing compositional requirements of the Exchange will still be required to be satisfied, including the provision relating to the fair representation of members. While the delegation of the authority relating to the (i) nomination and election of directors, (ii) nominating body for Representative Directors, (iii) filling of Director vacancies and (iv) appointment of committees is being modified, the substantive practices of the Exchange will remain the same. For example, the sole stockholder will be bound to nominate and elect the Representative Directors nominees recommended by the Representative Director Nominating Body or, in the event of a petition candidate, the Representative Director nominees who receive the most votes pursuant to a Run-off Election.

The Exchange believes eliminating the reference to “Compliance” in the ROCC’s name is appropriate and will reduce potential confusion given that the CCO is no longer required to (but may) report to the ROCC. The Exchange notes that the new name is also consistent with the name of the regulatory oversight committee of its affiliated exchanges.<sup>16</sup> Lastly, the Exchange believes updating the Exchange’s name in the title and signature line of its Certificate and adding a reference to its original name in the introductory paragraph of the Certificate, allows the Exchange to comply with Delaware law and reduce potential confusion. The alleviation of confusion removes impediments

---

<sup>16</sup> See Section 4.4 of the Bylaws of Cboe BYX Exchange, Inc., Cboe BZX Exchange, Inc., Cboe EDGA Exchange, Inc. and Cboe EDGX Exchange, Inc.

to, and perfects the mechanism for a free and open market and a national market system, and, in general, protects investors and the public interest of market participants.

The Exchange believes the proposed changes do not affect the meaning, administration, or enforcement of any rules of the Exchange or the rights, obligations, or privileges of Exchange members or their associated persons in any way.

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

The Exchange does not believe the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change relates to the corporate governance of the Exchange and not the operations of the Exchange. This is not a competitive filing and, therefore, imposes no burden on competition.

**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**

Within 45 days of the date of publication of this notice in the Federal Register or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission will:

A. by order approve or disapprove such proposed rule change, or

B. institute proceedings to determine whether the proposed rule change should be 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 e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-C2-2017-030 on the subject line.

##### Paper comments:

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

All submissions should refer to File Number SR-C2-2017-030. 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/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, D.C. 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-C2-2017-030 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>17</sup>

Secretary

---

<sup>17</sup> 17 CFR 200.30-3(a)(12).

Exhibit 5A

(additions are underlined; deletions are [bracketed])

**[NINTH]TENTH AMENDED AND RESTATED  
BYLAWS OF  
CBOE C2 EXCHANGE, INC.  
ARTICLE I Definitions**

**Section 1.1. Definitions.**

When used in these Bylaws, except as expressly otherwise provided or unless the context

\*\*\*\*\*

(k) The term “Representative Director Nominating Body” shall mean the Industry-Director Subcommittee of the [Nominating and Governance Committee] Board if there are at least two Industry Directors (excluding Directors that are employees of the Exchange) on the [Nominating and Governance Committee] Board. If the [Nominating and Governance Committee] Board has less than two Industry Directors (excluding Directors that are employees of the Exchange), then the “Representative Director Nominating Body” shall mean the Trading Permit Holders Subcommittee of the Advisory Board.

\*\*\*\*\*

**ARTICLE III Board of Directors**

**Section 3.1. Number, Election and Term of Office of Directors.**

The Board shall consist of not less than 5 directors. The Board shall determine from time to time pursuant to resolution adopted by the Board the total number of directors, the number of Non-Industry Directors and Industry Directors (if any), and the number of Representative Directors that are Non-Industry Directors and Industry Directors (if any). In no event shall the number of Non-Industry Directors constitute less than the number of Industry Directors (excluding the Chief Executive Officer from the calculation of Industry Directors for such purpose). In addition, at all times at least 20% of directors serving on the Board shall be Representative Directors nominated (or otherwise selected through the petition process) as provided for in Section 3.2 by the Representative Director Nominating Body.

A “Non-Industry Director” is a person who is not an Industry Director.

An “Industry Director” is any director who (i) is a holder of a Trading Permit or otherwise subject to regulation by the Exchange; (ii) is a broker-dealer or an officer, director or employee of a broker-dealer or has been in any such capacity within the prior three years; (iii) is, or was within the prior three years, associated with an entity that is affiliated with a broker-dealer whose revenues account for a material portion of the consolidated revenues of the entities with which the broker-dealer is affiliated; (iv) has a material ownership interest in a broker-dealer and has investments in broker-dealers that account for a material portion of the director's net worth; (v)

has a consulting or employment relationship with or has provided professional services to the Exchange or any of its affiliates or has had such a relationship or has provided such services within the prior three years; or (vi) provides, or has provided within the prior three years, professional or consulting services to a broker-dealer, or to an entity with a 50% or greater ownership interest in a broker-dealer whose revenues account for a material portion of the consolidated revenues of the entities with which the broker-dealer is affiliated, and the revenue from all such professional or consulting services accounts for a material portion of either the revenues received by the director or the revenues received by the director's firm or partnership.

Notwithstanding the foregoing, a director shall not be deemed to be an "Industry Director" solely because either (A) the person is or was within the prior three years an outside director of a broker-dealer or an outside director of an entity that is affiliated with a broker-dealer, provided that the broker-dealer is not a holder of a Trading Permit or otherwise subject to regulation by the Exchange, or (B) the person is or was within the prior three years associated with an entity that is affiliated with a broker-dealer whose revenues do not account for a material portion of the consolidated revenues of the entities with which the broker-dealer is affiliated, provided that the broker-dealer is not a holder of a Trading Permit or otherwise subject to regulation by the Exchange. At all times, at least one Non-Industry Director shall be a Non-Industry Director exclusive of the exceptions provided for in the immediately preceding sentence and shall have no material business relationship with a broker or dealer or the Exchange or any of its affiliates. For purposes of this Section 3.1, the term "outside director" shall mean a director of an entity who is not an employee or officer (or any person occupying a similar status or performing similar functions) of such entity.

The Board of Directors of the Exchange[ or the Nominating and Governance Committee of the Board] shall make all materiality determinations under the foregoing two paragraphs. A director shall qualify as a Non-Industry Director only so long as such director meets the requirements for that position.

Directors will serve one-year terms ending on the annual meeting following the meeting at which such directors were elected or at such time as their successors are elected or appointed and qualified, except in the event of earlier death, resignation, disqualification or removal.

Only persons who are recommended for nomination [nominated] as Representative Directors by the [Nominating and Governance Committee] Representative Director Nominating Body shall be eligible for election as Representative Directors. The [Nominating and Governance Committee] sole stockholder shall be bound to [accept and] nominate and elect the Representative Director nominees recommended by the Representative Director Nominating Body, provided that the Representative Director nominees are not opposed by a petition candidate as set forth in Section 3.2 below. If such Representative Director nominees are opposed by a petition candidate then the [Nominating and Governance Committee] sole stockholder shall be bound to [accept and] nominate and elect the Representative Director nominees who receive the most votes pursuant to a Run-off Election as set forth in Section 3.2 below.

The [Nominating and Governance Committee] Board shall determine[, subject to review by the Board,] whether a director candidate satisfies the applicable qualifications for election as a

director, and the decision of [that committee shall, subject to review, if any, by] the Board shall [,] be final.

### **Section 3.2. Nomination of Representative Directors.**

The Representative Director Nominating Body shall recommend a number of directors that equals 20% of the total number of directors serving on the Board (the “Representative Director(s)”), provided that if 20% of the directors then serving on the Board is not a whole number, such number of Representative Directors shall be rounded up to the next whole number. Directors not recommended by the Representative Director Nominating Body shall be nominated and elected by the [Nominating and Governance Committee] sole stockholder at the annual meeting of the stockholders. Any person recommended for nomination [nominated] by the Representative Director Nominating Body and any petition candidate nominated pursuant to this Section 3.2 shall satisfy the compositional requirements determined by the Board from time to time pursuant to a resolution adopted by the Board in accordance with Section 3.1, designating the number of Representative Directors that are Non-Industry Directors and Industry Directors (if any).

The Representative Director Nominating Body shall provide a mechanism for holders of Trading Permits to provide input to the Representative Director Nominating Body with respect to nominees for the Representative Directors. The Representative Director Nominating Body shall issue a circular to the holders of Trading Permits identifying the Representative Director nominees selected by the Representative Director Nominating Body not earlier than December 1<sup>st</sup> and not later than January 15th, or the first business day thereafter if January 15th is not a business day.

Holders of Trading Permits may nominate alternative candidates for election to the Representative Director positions to be elected in a given year by submitting a petition signed by individuals representing not less than 10% of the total outstanding Trading Permits at that time. Petitions must be filed with the Secretary no later than 5:00 p.m. (Chicago time) on the 10<sup>th</sup> business day following the issuance of the circular to the holders of Trading Permits identifying the Representative Director nominees selected by the Representative Director Nominating Body (the “Petition Deadline”). The names of all Representative Director nominees recommended by the Representative Director Nominating Body and those selected pursuant to a valid and timely petition shall, immediately following their selection, be given to the Secretary who shall promptly issue a circular to all of the Trading Permit Holders identifying all such Representative Director candidates.

If one or more valid petitions are received, the Secretary shall issue a circular to all of the Trading Permit Holders identifying those individuals nominated for Representative Director by the Representative Director Nominating Body and those individuals nominated for Representative Director through the petition process as well as of the time and date of a run-off election to determine which individuals will be nominated as Representative Director(s) by the [Nominating and Governance Committee] sole stockholder (the “Run-off Election”). The Run-off Election will be held not more than 45 days after the Petition Deadline. In any Run-off Election, each holder of a Trading Permit shall have one vote with respect to each Trading Permit held by such Trading Permit Holder for each Representative Director position to be filled that year; provided, however, that no holder of Trading Permits, either alone or together with its affiliates, may account for more than 20% of the votes cast for a candidate, and any votes cast by

a holder of Trading Permits, either alone or together with its affiliates, in excess of this 20% limitation shall be disregarded. Votes may be cast in person or by proxy. Additionally, in any Run-off Election, Trading Permits representing one-third of the total outstanding Trading Permits entitled to vote, when present in person or represented by proxy, shall constitute a quorum for purposes of the Run-off Election. The Secretary shall issue a circular to all of the Trading Permit Holders setting forth the results of the Run-off Election. The number of individual Representative Director nominees equal to the number of Representative Director positions to be filled that year receiving the largest number of votes in the Run-off Election (after taking into account the voting limitation set forth herein) will be the persons approved by the Trading Permit Holders to be nominated as the Representative Director(s) by the [Nominating and Governance Committee] sole stockholder for that year.

\*\*\*\*\*

### **Section 3.4. Resignation, Disqualification and Removal of Directors.**

(a) A director may resign at any time by giving written notice of his resignation to the Chairman of the Board or the Secretary, and such resignation, unless specifically contingent upon its acceptance, will be effective as of its date or of the date specified therein.

(b) In the event any Industry Director or Non-Industry Director fails to maintain the qualifications required for such category of director in Section 3.1 hereof, of which failure the Board shall be the sole judge, the term of office of such director shall terminate and such director shall thereupon cease to be a director, his office shall become vacant and, notwithstanding any provision to the contrary, the vacancy may be filled by the [Board] sole stockholder with a person who qualifies for the category in which the vacancy exists. Notwithstanding the foregoing, unless otherwise required by statute, the Certificate of Incorporation, regulations of the Securities and Exchange Commission ("SEC") or, if applicable, the regulations of any listing exchange on which the Corporation is listed, a director who fails to maintain the applicable qualifications may be allowed the later of (i) 45 days from the date when the Board determines the director is unqualified or (ii) until the next regular Board meeting following the date when the Board makes such determination, in which to requalify. Following the date when the Board determines the director is unqualified, the director shall be deemed not to hold office and the seat formerly held by the director shall be deemed to be vacant for all purposes. The Board shall be the sole judge of whether the director has requalified. If a director is determined to have requalified, the [Board] sole stockholder, in its sole discretion, may fill an existing vacancy in the Board or may increase the size of the Board, as necessary, to appoint such director to the Board; provided, however, that the [Board] sole stockholder shall be under no obligation to return such director to the Board.

(c) No Representative Director may be removed from office by a vote of the stockholders at any time except for cause, which shall include, but not be limited to (i) a breach of a Representative Director's duty of loyalty to the Corporation or its stockholders, (ii) acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law, (iii) transactions from which a Representative Director derived an improper personal benefit, or (iv) a failure of a Representative Director to be free from a statutory disqualification (as defined in Section 3(a)(39) of the Act). Any Representative Director may be removed for cause by the holders of a majority of the shares of stock then entitled to be voted at an election of directors.



### **Section 3.5. Filling of Vacancies.**

(a) Notwithstanding any provision herein to the contrary, any vacancy in the Board, however occurring, including a vacancy resulting from an increase in the number of the directors, may be filled by [vote of a majority of the directors then in office, although less than a quorum, or by a sole remaining director] the sole stockholder, provided such new director qualifies for the category in which the vacancy exists. A director elected to fill a vacancy shall hold office until the next annual meeting of stockholders, subject to the election and qualification of his or her successor and to his or her earlier death, resignation, disqualification or removal.

(b) If the [Board] sole stockholder fills a vacancy resulting from a Representative Director position becoming vacant prior to the expiration of such Representative Director's term, or resulting from the creation of an additional Representative Director position required by an increase in the size of the Board, then the [Board] sole stockholder shall follow the procedures set forth in this Section 3.5(b). In such an event, the Representative Director Nominating Body shall either (i) recommend an individual to the [Board] sole stockholder to be elected to fill such vacancy or (ii) provide a list of recommended individuals to the [Board] sole stockholder from which the [Board] sole stockholder shall elect the individual to fill such vacancy. The [Board] sole stockholder shall elect, pursuant to this Section 3.5(b), only individuals recommended by the Representative Director Nominating Body; provided, however, the [Board] sole stockholder shall not be required to take any action or elect any individual if the Board believes that taking such action or electing such individual would be contrary to the Board's fiduciary duties. The Representative Director Nominating Body shall only recommend individuals to fill a vacancy in a Representative Director position who satisfy the compositional requirements designated by the Board from time to time pursuant to resolution adopted by the Board in accordance with Section 3.1, designating the number of Representative Directors that are Non-Industry Directors and Industry Directors (if any).

Any vacancy filled pursuant to this Section 3.5(b), shall be filled by the sole stockholder [vote of a majority of the directors then in office, although less than a quorum].

\*\*\*\*\*

## **ARTICLE IV Committees**

### **Section 4.1. Designation of Committees.**

(a) Committees of the Board. The committees of the Board shall consist of an Executive Committee, a Regulatory Oversight [and Compliance] Committee[, a Nominating and Governance Committee] and such other standing and special committees as may be approved by the Board. Except as may be otherwise provided in these Bylaws or as may be otherwise provided for from time to time by resolution of the Board, the Board may, at any time, with or without cause, remove any member of any such committees of the Board.

(b) Committees of the Exchange. The Exchange also shall have such other committees as may be provided in these Bylaws or the Rules or as may be from time to time created by the Board. Except as may be otherwise provided in these Bylaws, the Rules or the resolution of the Board establishing any such other committee, the Chief Executive Officer or his or her designee, with the approval of the Board, shall appoint the members of such Exchange committees (other than the committees of the Board) and may designate, with the approval of the Board, a

Chairman and a Vice-Chairman thereof. Except as may be otherwise provided in these Bylaws or the Rules, the Chief Executive Officer or his or her designee, with the approval of the Board, may, at any time, with or without cause, remove any member of any such Exchange committees.

#### **Section 4.2. The Executive Committee.**

The Executive Committee will include the Chairman of the Board, the Chief Executive Officer (if a director), the Lead Director, if any, at least one Representative Director and such other number of directors that the Board deems appropriate, provided that in no event shall the number of Non-Industry Directors constitute less than the number of Industry Directors serving on the Executive Committee (excluding the Chief Executive Officer from the calculation of Industry Directors for such purpose). Members of the Executive Committee (other than those specified in the immediately preceding sentence) shall be [recommended] appointed by the [Nominating and Governance Committee for approval by the] Board. Members of the Executive Committee shall not be subject to removal except by the Board. The Chairman of the Board shall be the Chairman of the Executive Committee. Each member of this Committee shall be a voting member. The members of the Executive Committee shall serve for a term of one year expiring at the first regular meeting of directors following the annual meeting of stockholders each year or until their successors are appointed. The Executive Committee shall have and may exercise all the powers and authority of the Board in the management of the business and affairs of the Corporation, except it shall not have the power and authority of the Board to (i) approve or adopt or recommend to the stockholders any action or matter (other than the election or removal of directors) expressly required by Delaware law to be submitted to stockholders for approval, including without limitation, amending the Certificate of Incorporation, adopting an agreement of merger or consolidation, approving a sale, lease or exchange of all or substantially all of the Corporation's property and assets, or approval of a dissolution of the Corporation or revocation of a dissolution, or (ii) adopt, alter, amend or repeal any bylaw of the Corporation.

#### **[Section 4.3. The Nominating and Governance Committee.**

The Nominating and Governance Committee shall consist of at least five directors and shall at all times have a majority of directors that are Non-Industry Directors. All members of the committee shall be recommended by the Nominating and Governance Committee for approval by the Board. The exact number of Nominating and Governance Committee members shall be determined from time to time by the Board. Members of the Nominating and Governance Committee shall not be subject to removal except by the Board. The Chairman of the Nominating and Governance Committee shall be recommended by the Nominating and Governance Committee for approval by the Board. Subject to Section 3.2 and Section 3.5 of these Bylaws, the Nominating and Governance Committee shall have the authority to nominate individuals for election as directors of the Corporation. The Nominating and Governance Committee shall have such other duties and may exercise such other authority as may be prescribed by resolution of the Board and the Nominating and Governance Committee Charter as adopted by resolution of the Board. If the Nominating and Governance Committee has two or more Industry Directors, there shall be an Industry-Director Subcommittee consisting of all of the Industry Directors then serving on the Nominating and Governance Committee, which shall act as the Representative Director Nominating Body if and to the extent required by these Bylaws.]

**Section 4.[4]3. The Regulatory Oversight [and Compliance] Committee.**

The Regulatory Oversight [and Compliance] Committee shall consist of at least three directors, all of whom shall be Non-Industry Directors and all of whom shall be recommended by the Non-Industry Directors on the [Nominating and Governance Committee] Board for approval by the Board. The exact number of Regulatory Oversight [and Compliance] Committee members shall be determined from time to time by the Board. Members of the Regulatory Oversight [and Compliance] Committee shall not be subject to removal except by the Board. The Chairman of the Regulatory Oversight [and Compliance] Committee shall be recommended by the Non-Industry Directors of the [Nominating and Governance Committee] Board for approval by the Board. The Regulatory Oversight [and Compliance] Committee shall have such duties and may exercise such authority as may be prescribed by resolution of the Board, these Bylaws or the Rules of the Exchange.

**Section 4.[5]4. Other.**

All other committees shall have such duties and may exercise such authority as may be prescribed for them by the Certificate of Incorporation, these Bylaws or the Rules or by resolution of the Board.

**Section 4.[6]5. Conduct of Proceedings.**

Unless otherwise provided in the Certificate of Incorporation, these Bylaws, the Rules, the charter of the committee or by the Board of Directors by resolution, each committee may determine the manner in which committee proceedings shall be conducted. In the absence of any such established procedures, each committee shall conduct its business in the same manner as the Board of Directors conducts its business pursuant to Article 3 of these Bylaws. Committees shall keep minutes of their meetings and periodically report their proceedings to the Board and appropriate committees of the Board to the extent requested by the Board or Board committee.

\*\*\*\*\*

**ARTICLE VI Advisory Board****Section 6.1. Advisory Board.**

The Board will establish an Advisory Board which shall advise the Board and management regarding matters of interest to Trading Permit Holders. It shall consist of such number of members as set by the Board from time to time, including at least two members who are Trading Permit Holders or persons associated with Trading Permit Holders. The Chief Executive Officer, or his or her designee, shall be the Chairman of the Advisory Board. The members of the Advisory Board shall be [recommended] appointed by [the Nominating and Governance Committee for approval by] the Board. There shall be a Trading Permit Holders Subcommittee of the Advisory Board consisting of all members of the Advisory Board who are Trading Permit Holders or persons associated with Trading Permit Holders, which shall act as the Representative Director Nominating Body if and to the extent required by these Bylaws.

\*\*\*\*\*

Exhibit 5B

(additions are underlined; deletions are [bracketed])

**[FIFTH] SIXTH AMENDED AND RESTATED**

**CERTIFICATE OF INCORPORATION**

**of**

**CBOE C2 [OPTIONS] EXCHANGE, [INCORPORATED]INC.**

C2 Options Exchange, Incorporated, a corporation organized under the laws of the State of Delaware (the "Corporation"), hereby certifies as follows:

1. The Corporation was incorporated on July 21, 2009 under the name "C2 Options Exchange, Incorporated".
2. This [Fifth] Sixth Amended and Restated Certificate of Incorporation has been duly adopted in accordance with Section 242 and Section 245 of the General Corporation Law of the State of Delaware (the "GCL") and by the written consent of its sole stockholder in accordance with Section 228 of the GCL. This [Fifth] Sixth Amended and Restated Certificate of Incorporation restates, integrates and further amends the provisions of the [Fourth] Fifth Amended and Restated Certificate of Incorporation of the Corporation.
3. The text of the [Fifth] Sixth Amended and Restated Certificate of Incorporation as amended and restated shall read in full as follows:

\*\*\*\*\*

FIFTH: (a) The governing body of the Corporation shall be its Board of Directors. The business and affairs of the Corporation shall be managed by or under the direction of the Board of Directors.

(b) The Board of Directors of the Corporation shall consist of not less than 5 directors, the exact number to be fixed in accordance with the Corporation's Bylaws.

(c) [Only persons who are nominated by the Nominating and Governance Committee shall be eligible for election as directors.] The sole stockholder shall nominate directors for election and [Nominating and Governance Committee] shall be bound to [accept and] nominate and elect (a) the individual(s) recommended by the Representative Director Nominating Body (as defined in the Corporation's Bylaws) for nomination as Representative Director (as defined in the Corporation's Bylaws), provided that the individuals so [nominated] recommended by the Representative Director Nominating Body are not opposed by a petition candidate or (b) the individual(s) who receive the most votes pursuant to a petition election as set forth in Section 3.2 of the Corporation's Bylaws; provided, however, that any individual(s) recommended by the Representative Director Nominating Body and any individual(s) who are petition candidates pursuant to clause (b) of the preceding sentence shall satisfy the compositional requirements determined by the Board of Directors from time to time pursuant to a resolution adopted by the

Board in accordance with Section 3.1 of the Corporation's Bylaws, designating the number of Representative Directors that are Non-Industry Directors and Industry Directors (if any), as such terms are defined in the Corporation's Bylaws; and provided further, that the Board of Directors [and/or Nominating and Governance Committee, as applicable,] shall make such determinations as to whether a director candidate satisfies applicable qualifications for election as a director pursuant to and in accordance with Section 3.1 of the Corporation's Bylaws.

\*\*\*\*\*

IN WITNESS WHEREOF, Cboe C2 [Options] Exchange, Inc.[orporated] has caused this certificate to be signed as of this [16<sup>th</sup>] — day of [October] \_\_\_\_, 201[7]\_\_.

CBOE C2 [OPTIONS] EXCHANGE,  
[INCORPORATED]INC.

By: [/s/ Edward T. Tilly]  
Name: Edward T. Tilly  
Its: Chief Executive Officer