

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-63246; File No. SR-C2-2010-007)

November 4, 2010

Self-Regulatory Organizations; C2 Options Exchange, Incorporated: Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to PULSe Fees

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the “Act”),¹ and Rule 19b-4 thereunder,² notice is hereby given that on October 28, 2010, C2 Options Exchange, Incorporated (the “Exchange” or “C2”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change as described in Items I, II and III below, which Items have been prepared by the Exchange. The Exchange has designated this proposal as one establishing or changing a due, fee, or other charge imposed by the Exchange under Section 19(b)(3)(A)(ii) of the Act³ and Rule 19b-4(f)(2) thereunder.⁴ 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 Fees Schedule to adopt fees for the use of a front-end order entry workstation, referred to as PULSe, that will be a facility of the Exchange. The text of the proposed rule change is available on the Exchange’s website (<http://www.cboe.org/legal>), at the Exchange’s Office of the Secretary and at the Commission.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 15 U.S.C. 78s(b)(3)(A)(ii).

⁴ 17 CFR 240.19b-4(f)(2).

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, Proposed Rule Change

1. Purpose

The purpose of this proposed rule change is to establish fees relating to the use of the PULSe order entry workstation on C2, which fees are modeled after the fees established for C2 affiliates Chicago Board Options Exchange, Incorporated (“CBOE”) and the CBOE Stock Exchange (“CBSX”).

The PULSe workstation is a front-end order entry system designed for use with respect to orders that may be sent to the trading systems of C2.⁵ In addition to providing the capability to send orders to the C2 market, the PULSe workstation will also provide a user with the capability to send options orders to other U.S. options exchanges (including CBOE) and stock orders to other U.S. stock exchanges (including CBSX) through a “PULSe Routing Intermediary” as further described below (“away-market routing”).

⁵ The Exchange represents that the PULSe workstation is merely a new front-end system interface to existing C2 trading systems (i.e., it is a new means of connecting to these existing trading systems), and does not require any changes to the Exchange’s surveillance or communications rules. Further, there is no change to, or impact on, the Exchange’s market structure as a result of the PULSe workstations.

Additionally, the PULSe workstation functionality will include access to consolidated real-time options and stock market data.⁶

The PULSe workstation will be made available by Signal Trading Systems, LLC (“STS”). STS is an affiliate of CBOE that is jointly owned by CBOE and FlexTrade Systems, Inc. (“FlexTrade”), a technology services provider. STS will grant licenses to use the workstation directly to C2 Permit Holders (“Permit Holders”) and their customers, including Sponsored Users. STS may also determine to permit Permit Holders to make the workstation available to their customers, including Sponsored Users, through the use of a sublicense. However, whether the workstation technology is obtained through a direct license or sublicense from STS, any order routed to C2 through a PULSe workstation must be routed through a Permit Holder or by a Sponsored User (whose orders are sponsored by a Permit Holder).⁷ The Permit Holder will also be responsible for any applicable fees, which are described below.

The Exchange proposes a monthly PULSe workstation fee to Permit Holders of \$350 per Permit Holder workstation per month for the first 10 PULSe workstations and \$100 per Permit Holder workstation per month for each additional PULSe workstation.

⁶ The workstation will also have the capability to enable a user to send orders for commodity futures and commodity options to designated contract markets and other venues of the user’s choice at which the user has trading privileges and to futures commission merchants (each, an “FCM”) and introducing brokers (each, an “IB”) of the user’s choice. The workstation may also have the capability to enable a user to send orders in other non-security products to one or more destinations of the user’s choice.

⁷ The PULSe workstation may be made available by a TPH to its customers on a pass-through basis (where orders pass through the TPH’s systems prior to reaching the Exchange) or a sponsored access basis. To the extent that a TPH makes the workstation available to a customer on a sponsored access basis, the customer would be considered a “sponsored user” and the TPH-customer relationship would be considered a Sponsoring Participant/Sponsored User relationship subject to the requirements of Rule 3.15, Sponsored Users.

As discussed further below, Permit Holders may also make the workstation available to their customers, which may include non-broker dealer public customers and non-Permit Holder broker dealers (referred to herein as “non-Permit Holders”). For such non-Permit Holder workstations, the Exchange proposes to introduce a flat fee of \$350/month per workstation. In instances where two or more Permit Holders wish to make a PULSe workstation available to the same non-Permit Holder customer, the Exchange is proposing to introduce a fee reduction. Under the reduction, if two or more Permit Holders make the PULSe workstation available to the same non-Permit Holder customer, then the monthly fee will be \$250 per workstation per Permit Holder. The Exchange also proposes an away-market routing fee to the entering Permit Holder of \$0.10 per executed options contract (or equivalent share amount in the case of stock) for away-market routing of orders through the PULSe workstation.

The Exchange notes that the PULSe workstation offers the ability to route orders to any market, including CBOE. Therefore, to the extent a C2 TPH that is also a CBOE TPH obtains a PULSe workstation through C2, it is not necessary for that TPH to obtain a separate PULSe workstation through CBOE to route orders to CBOE. When the PULSe workstation is made available through C2 to a C2 TPH that is also a CBOE TPH, the PULSe workstation, away-market routing, and Routing Intermediary fees would be assessed by C2 only (e.g., the monthly fee to a C2 TPH for one PULSe is \$350 and the monthly fee for a CBOE TPH for one PULSe workstation is \$350; if a PULSe workstation is made available through C2 to a C2 TPH that is also a CBOE TPH, the monthly fee would be \$350, not \$700). To the extent a C2 TPH is also a CBOE TPH, the away-market routing fee would not apply for the TPH’s executions on C2 or CBOE

because the fee is only applicable for away-market routing. The TPH would not be routing away, but instead would be submitting orders directly to C2 as a C2 TPH or CBOE as a CBOE TPH, as applicable, where the TPH's activity would be subject to the transaction fee schedule of C2 or CBOE, respectively. However, to the extent a C2 TPH is not a CBOE TPH, the away-market routing fee would apply to the C2 TPH's executions on CBOE.

The Exchange believes the fee structure represents an equitable allocation of reasonable fees in that the same fees are applicable to all users. The Exchange believes the workstation and routing intermediary fees are competitive with fees applicable to similar workstations that offer away-market routing services provided by other exchanges. The Exchange also believes it is reasonable and appropriate to reduce the monthly PULSe workstation fee when two or more TPHs make a workstation available to the same non-Permit Holder because, while we would still establish and maintain PULSe workstation technology arrangements with each TPH, we also anticipate that the non-Permit Holder's use of the workstation would be distributed among the TPHs. In addition, the Exchange believes that the \$0.10 away-market routing fee is reasonable and appropriate in light of the fact that it is small in relation to the value to the user of the PULSe workstation and its extensive functionality, including its ability to facilitate the routing of orders to any securities exchange and in relation to the total costs typically incurred in routing and executing orders. The Exchange believes it is not necessary to apply this fee to a C2 TPH's executions on C2 (or to a dual C2 TPH/CBOE TPH's executions on CBOE) because the TPH is not routing away. Instead the TPH is submitting orders directly to C2 (or CBOE, as applicable) where the activity is subject to

the transaction fee schedule of C2 (or CBOE, respectively). The Exchange also notes that use of the PULSe workstation and the away-market routing functionality available through the PULSe workstation are not compulsory. The services are to be offered as a convenience to Permit Holders and would not be the exclusive means available to a Permit Holder to send orders to C2, CBOE, CBSX or intermarket.

The PULSe workstation may be configured by the Exchange to cause C2 and/or CBOE to be the default destination exchange(s) for individually executed marketable option orders if C2 and/or CBOE is at the national best bid or offer (“NBBO”), regardless of size or time, but will allow any user to manually override C2 and/or CBOE as the default destination on an order-by-order basis.⁸ Similarly, the PULSe workstation may also be configured by the Exchange to cause CBSX to be the default designation exchange for individually executed marketable stock orders if CBSX is at the NBBO, regardless of size or time, but will allow the user to manually override CBSX as the default destination on an order-by-order basis. The workstation also incorporates a function allowing option (stock) orders at a specified price to be sent to multiple exchanges with a single click (“sweep function”). The sweep function may be configured by the Exchange to cause an option order to be sent to C2 and/or CBOE for up to the full

⁸ Nothing about the PULSe order routing functionality would relieve any Permit Holder that is using the PULSe workstation from complying with its best execution obligations. Specifically, just as with any customer order and any other routing functionality, a Permit Holder would have an obligation to consider the availability of price improvement at various markets and whether routing a customer order through the PULSe functionality would allow for access to opportunities for price improvement if readily available. Moreover, a Permit Holder would need to conduct best execution evaluations on a regular basis, at a minimum quarterly, that would include its use of the PULSe workstation.

size quoted by C2 and/or CBOE if C2 and/or CBOE is at the NBBO.⁹ Similarly, the sweep function may be configured by the Exchange to cause a stock order to be sent to CBSX for up to the full size quoted by CBSX if CBSX is at the NBBO. Again, the away-market routing functionality is to be offered as a convenience to Permit Holders and would not be an exclusive means available to a Permit Holder to send orders intermarket.¹⁰

To use the PULSe workstation to route to other markets, a Permit Holder must either be a PULSe Routing Intermediary or establish a relationship with a PULSe Routing Intermediary. A “PULSe Routing Intermediary” is a C2 Permit Holder that has connectivity to, and is a member of, other options and/or stock exchanges. If a Permit Holder sends an order from the PULSe workstation, the PULSe Routing Intermediary will route that order to the designated market on behalf of the entering Permit Holder. For Permit Holder convenience, CBOE will make available a list of PULSe Routing Intermediaries that provide third-party routing services. The Exchange proposes that

⁹ For example, if a Permit Holder were to enter an option order to buy 250 contracts using the sweep function at a time when C2 is at the NBBO for 100 contracts, the sweep function will be configured to send an order for 100 contracts to C2, with the balance of the order routed as specified by the Permit Holder entering the order from the configurations offered by the PULSe workstation. Nothing will require a person using the PULSe workstation to use the sweep function, and, in this same example, if the Permit Holder wished to route the entire order for 250 contracts to an exchange other than C2 using the PULSe workstation, the Permit Holder will be free to manually override C2 as the default destination for the entire order.

¹⁰ With respect to options (stocks), the Exchange also notes that the away-market functionality in the PULSe workstation will not displace the provisions of the Options Order Protection and Locked/Crossed Market Plan (Regulation NMS), which will continue to apply in the circumstances described in the Plan (Regulation NMS).

each PULSe Routing Intermediary be charged a fee of \$20 per PULSe workstation per month for each PULSe workstation that is enabled to send orders through that Routing Intermediary if another Permit Holder requests routing functionality through that Routing Intermediary. The Exchange is proposing that the PULSe Routing Intermediary fee be waived through December 31, 2010, thus this fee will be assessed beginning January 1, 2011.

Finally, the Exchange proposes to introduce a fee for non-standard services provided by STS. Non-standard services may include time and materials for non-standard installations of or modifications to PULSe to accommodate a Permit Holder's use of PULSe with other technologies. The Exchange is proposing a fee of \$350 per hour plus costs.

The Exchange believes that the PULSe workstation will constitute a "facility" of C2¹¹ to the extent that it is used with respect to orders for options and other securities.¹² A portion of the fees collected by C2 for the use of the workstation will be remitted to STS.¹³

¹¹ The Exchange believes that the PULSe workstation will, in the language of Section 3(a)(2) of the Act, 15 U.S.C. 78c(a)(2), constitute a property or service "for the purpose of effecting or reporting a transaction on an exchange"

¹² The capability of the workstation to initiate orders for commodity futures and commodity options and other non-security products to be sent to a designated contract market, FCM, IB or other destination that does not constitute an "exchange" (as that term is defined in Section 3(a)(1), 15 U.S.C. 78c(a)(1), and used in Section 3(a)(2), 15 U.S.C. 78c(a)(2), of the Act) will not constitute part of the "facility" of CBOE.

¹³ FlexTrade is not, and, at least initially, will not be registered as a broker-dealer under Section 15(a) of the Act, 15 U.S.C. 78o. STS also will not, at least initially, be registered as a broker-dealer under Section 15(a) of the Act. In this regard, we note the following: (i) C2 (and/or its affiliate, CBOE) will be primarily

The Exchange notes that FlexTrade engages and will engage in business activities in addition to its provision of services to STS and that these activities include providing other technology services to broker-dealers.¹⁴ The Exchange also notes that STS may in the future engage in business activities in addition to making the PULSe workstation facility available, and that these activities may also include the provision of other technology services to broker-dealers. In this regard: (i) There will be procedures and internal controls in place that are reasonably designed so that FlexTrade does not unfairly take advantage of confidential information relating to PULSe in its other business activities and so that STS will not unfairly take advantage of confidential information relating to PULSe to the extent that STS engages in any other business activities other

responsible for the marketing of the PULSe workstation. In no event will FlexTrade have any role in marketing the PULSe workstation. FlexTrade will not be a party to any agreements with Permit Holders for the PULSe workstation. (ii) In contributing services to STS, FlexTrade will be limited to providing software and systems technology and maintaining proper technical functioning. C2 will be responsible for ensuring that STS's provision of the PULSe workstation, as a facility of C2, meets C2's obligations as a self-regulatory organization. (iii) Unless it becomes registered as a broker-dealer under Section 15(a) of the Act, neither STS nor FlexTrade will hold itself out as a broker-dealer, provide advice related to securities transactions, match orders, make decisions about routing orders, facilitate the clearance and settlement of executed trades, prepare or send transaction confirmations, screen counterparties for creditworthiness, hold funds or securities, open, maintain, administer or close brokerage accounts, or provide assistance in resolving problems, discrepancies or disputes related to brokerage accounts. Should STS or FlexTrade seek to register as a broker-dealer in the future, the Exchange represents that the broker-dealer would not perform any operations without first discussing with the Commission staff whether any of the broker-dealer's operations should be subject to an Exchange rule filing required under the Act, 15 U.S.C. 78s(b)(1).

¹⁴ The Exchange notes that FlexTrade is the sole member of a single member limited liability company named FlexTrade LLC, that FlexTrade LLC is a registered broker-dealer, and that FlexTrade and FlexTrade LLC each currently makes a front-end order entry workstation named "FlexTrader" available. FlexTrade LLC is not a Permit Holder of C2.

than providing the PULSe workstation. (ii) The books, records, premises, officers, directors, agents, and employees of STS, with respect to the PULSe workstation, as a facility of C2, will be deemed to be those of C2 for purposes of and subject to oversight pursuant to the Act. (iii) Use of the PULSe workstation will be optional. Permit Holders will not be required to use the PULSe workstation to initiate their orders, and a Permit Holder may use any available order entry system that it selects, including one that it develops itself, for use to initiate its orders.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Act,¹⁵ in general, and furthers the objectives of Section 6(b)(4) of the Act,¹⁶ in particular, in that it is designed to provide for the equitable allocation of reasonable dues, fees, and other charges among C2 Permit Holders in that the same fees and fee waivers are applicable to all users of the PULSe workstation.

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

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of purposes of the Act.

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

No written comments were solicited or received with respect to the proposed rule change.

¹⁵ 15 U.S.C. 78f(b).

¹⁶ 15 U.S.C. 78f(b)(4).

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

The proposed rule change is designated by the Exchange as establishing or changing a due, fee, or other charge, thereby qualifying for effectiveness on filing pursuant to Section 19(b)(3)(A)(ii) of the Act¹⁷ and subparagraph (f)(2) of Rule 19b-4¹⁸ thereunder.

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

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. Please include File Number SR-C2-2010-007 on the subject line.

Paper comments:

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

¹⁷ 15 U.S.C. 78s(b)(3)(A)(ii).

¹⁸ 17 CFR 240.19b-4(f)(2).

All submissions should refer to File Number SR-C2-2010-007. 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 Web site (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for 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 such 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-C2-2010-007 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.¹⁹

Florence E. Harmon
Deputy Secretary

¹⁹ 17 CFR 200.30-3(a)(12).