

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-76995; File No. SR-C2-2016-001)

January 28, 2016

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

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”),¹ and Rule 19b-4 thereunder,² notice is hereby given that on January 14, 2016, 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 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 the Options Regulatory Fee. The text of the proposed rule change is 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.

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.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to decrease the Options Regulatory Fee ("ORF") from \$.0051 to \$.0015 per contract in order to help ensure that revenue collected from the ORF, in combination with other regulatory fees and fines, does not exceed the Exchange's total regulatory costs. The proposed fee change would be operative on February 1, 2016.

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

The ORF is designed to recover a material portion of the costs to the Exchange of the supervision and regulation of Permit Holder customer options business, including performing routine surveillances, investigations, examinations, financial monitoring, as well as policy, rulemaking, interpretive and enforcement activities. The Exchange believes that revenue generated from the ORF, when combined with all of the Exchange's other regulatory fees and

finer, will cover a material portion, but not all, of the Exchange's regulatory costs. The Exchange notes that its regulatory responsibilities with respect to Permit Holder compliance with options sales practice rules have largely been allocated to FINRA under a 17d-2 agreement.³ The ORF is not designed to cover the cost of that options sales practice regulation.

The Exchange will continue to monitor the amount of revenue collected from the ORF to ensure that it, in combination with its other regulatory fees and fines, does not exceed the Exchange's total regulatory costs. The Exchange monitors its regulatory costs and revenues at a minimum on a semi-annual basis. If the Exchange determines regulatory revenues exceed or are insufficient to cover a material portion of its regulatory costs, the Exchange will adjust the ORF by submitting a fee change filing to the Commission. The Exchange notifies Permit Holders of adjustments to the ORF via regulatory circular. The Exchange endeavors to provide Permit Holders with such notice at least 30 calendar days prior to the effective date of the change.

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.⁴ Specifically, the Exchange believes the proposed rule change is consistent with Section 6(b)(4) of the Act⁵, which provides that Exchange rules may provide for the equitable allocation of reasonable dues, fees, and other charges among its Permit Holders and other persons using its facilities. Additionally,

³ See Securities Exchange Act Release No. 76309 (October 29, 2015), 80 FR 68361 (November 4, 2015).

⁴ 15 U.S.C. 78f(b).

⁵ 15 U.S.C. 78f(b)(4).

the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)⁶ requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange believes the proposed fee change is reasonable because it would help the Exchange offset increased regulatory costs but would not result in total regulatory revenue exceeding total regulatory costs. Moreover, the Exchange believes the ORF ensures fairness by assessing higher fees to those Permit Holders that require more Exchange regulatory services based on the amount of customer options business they conduct. Regulating customer trading activity is much more labor intensive and requires greater expenditure of human and technical resources than regulating non-customer trading activity, which tends to be more automated and less labor-intensive. As a result, the costs associated with administering the customer component of the Exchange's overall regulatory program are materially higher than the costs associated with administering the non-customer component (e.g., Permit Holder proprietary transactions) of its regulatory program.⁷ The Exchange believes the proposed fee change is equitable and not unfairly discriminatory in that it is charged to all Permit Holders on all their transactions that clear in the customer range at the OCC.

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

C2 does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, because it applies to all Permit Holders. The proposed ORF is comparable to fees charged by other options exchanges

⁶ 15 U.S.C. 78f(b)(5).

⁷ If the Exchange changes its method of funding regulation or if circumstances otherwise change in the future, the Exchange may decide to modify the ORF or assess a separate regulatory fee on Permit Holder proprietary transactions if the Exchange deems it advisable.

for the same or similar service. The Exchange believes any burden on competition imposed by the proposed rule change is outweighed by the need to help the Exchange adequately fund its regulatory activities to ensure compliance with the Exchange Act.

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

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act⁸ and paragraph (f) of Rule 19b-4⁹ 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. If the Commission takes such action, the Commission will institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments:

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-C2-2016-001 on the subject line.

⁸ 15 U.S.C. 78s(b)(3)(A).

⁹ 17 CFR 240.19b-4(f).

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-C2-2016-001. 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, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should

submit only information that you wish to make available publicly. All submissions should refer to File Number SR-C2-2016-001 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.¹⁰

Robert W. Errett
Deputy Secretary

¹⁰ 17 CFR 200.30-3(a)(12).