

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-64974; File No. SR-C2-2011-016)

July 27, 2011

Self-Regulatory Organizations; C2 Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Adopt Fees for the Execution of Complex Orders

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 July 22, 2011, C2 Options Exchange, Incorporated (the “Exchange” or “C2”) filed with the Securities and Exchange Commission (the “Commission”) the proposed rule change as described in Items I, II, and III below, which Items 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 adopt fees for the execution of complex orders. The text of the proposed rule change is available on the Exchange’s Web site (<http://www.cboe.org/legal>), at the Exchange’s Office of the Secretary, and at the Commission.

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

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

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 parts of such statements.

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

1. Purpose

In December 2009, the Commission approved adoption of C2's rules, including the process for the execution of complex orders.³ Beginning on July 25, 2011, C2 intends to permit the execution of complex orders on the Exchange. To that end, the Exchange hereby proposes to adopt a set of fees for such executions. The adoption of such fees will allow the Exchange to equitably assess reasonable fees incurred for processing such orders.

The complex order fees apply to complex orders in multiply-listed, equity and ETF options classes. The complex order fees apply to all components of a complex order itself, but may not apply to both sides of a transaction involving a complex order. For transactions in which straight one-sided orders execute against a complex order, each component of the complex order will be assessed the complex order fees listed in Section 1B of the Fees Schedule, while the straight one-sided orders will be assessed the transaction fees listed in Section 1A of the Fees Schedule. For transactions in which a complex order executes against another complex order, each component of the complex order will be assessed the complex order fees listed in Section 1B of the Fees Schedule. For executions that occur within the Complex Order Auction ("COA") against auction responses, the

³ See Securities Exchange Act Release No. 61152 (December 10, 2009), 74 FR 66699 (December 16, 2009).

incoming/auctioned order is considered maker, and auction responses are considered taker.

The Exchange proposes to offer a maker rebate of \$0.25 for complex orders entered by public customers and assess a maker fee of \$0.10 for complex orders entered by C2 market makers and \$0.20 for complex orders entered from all other market participant origins (professional customers, firms, broker/dealers, non-C2 market-makers, etc.). The Exchange proposes to assess taker fees of \$0.00 for complex orders entered by public customers and \$0.35 for complex orders entered from C2 market-makers and all other market participant origins (professional customers, firms, broker/dealers, non-C2 market-makers, etc.). Listed rates for the complex order fees are per contract.

As with straight one-sided orders, the Exchange proposes to charge no fees and offer no rebates to any market participants for trades on the open. Trades on the open involve the matching of undisplayed pre-opening trading interest. As such, there is, in effect, no maker or taker activity occurring. The Exchange would like to encourage users to submit pre-opening orders.

The Exchange also proposes to amend Section 1A of the Fees Schedule to clarify that the fees therein apply to straight one-sided orders, as opposed to the new fees listed in Section 1B, which apply to complex orders.

The proposed complex order fee structure should encourage public customers to execute complex orders on the Exchange.

The proposed rule change will take effect on July 25, 2011.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Act,⁴ in general, and furthers the objectives of Section 6(b)(4)⁵ of the Act in particular, in that it is designed to provide for the equitable allocation of reasonable dues, fees, and other charges among C2 Trading Permit Holders and other persons using Exchange facilities. The Exchange believes that the assessment of transaction fees for complex orders is an equitable allocation of reasonable fees because such orders require processing and the assessment of such fees allows the Exchange to recoup costs incurred processing such orders, as well as recoup administrative and other costs. The Exchange believes that the amounts of the proposed fees are reasonable because they are comparable or favorable to fees assessed by the International Securities Exchange, LLC (“ISE”)⁶ and NASDAQ OMX PHLX, LLC (“PHLX”)⁷ for complex order execution.

The Exchange believes that, with respect to complex orders, offering a maker rebate to public customers (and not other market participants) and assessing a lower taker fee for public customers than for other market participants is equitable and not unfairly discriminatory because it will attract public customer order flow to the Exchange and incentivize broker-dealers and firms to execute public customer orders on the Exchange. To the extent that this purpose is achieved, all of the Exchange’s market participants should benefit from the improved market liquidity and the greater number of public customer orders with which to trade. Further, the Exchange believes that the public

⁴ 15 U.S.C. 78f(b).

⁵ 15 U.S.C. 78f(b)(4).

⁶ See ISE Schedule of Fees, page 16.

⁷ See PHLX Fee Schedule, pages 6-8.

customer maker rebate and taker fee for complex orders is not unfairly discriminatory because the same rebates and fees would be assessed uniformly to all public customers.

The Exchange believes that assessing a lower maker fee for complex orders originating from C2 market-makers than for those originating from all other origins (except Public Customers) is equitable and not unfairly discriminatory because C2 market-makers have affirmative obligations (such as quoting) to the Exchange that other market participants do not have. Further, assessing different complex order fee amounts to different types of market participants on C2 is equitable and not unfairly discriminatory because ISE and PHLX assess different complex order fee amounts to different types of market participants in connection with complex order executions.⁸ Finally, assessing different fee levels based on order origin type is a longstanding practice in the options market.⁹

The Exchange believes that the complex order fees being assessed to C2 market-makers are equitable and not unfairly discriminatory because the same fees would be assessed uniformly to all C2 market-makers. The Exchange also believes that the fees being assessed to complex orders entered by all origins other than public customers and C2 market-makers are equitable and not unfairly discriminatory because the same fees would be assessed to all complex orders entered from origins other than public customers and C2 market-makers.

⁸ See ISE Schedule of Fees, page 16 and PHLX Fee Schedule, pages 6-8.

⁹ See the Fee Schedules of the BATS Exchange, Inc., BATS Y-Exchange, Inc., Chicago Board Options Exchange, Incorporated, ISE, NASDAQ OMX BX, Inc., PHLX, NYSE Amex, LLC, and NYSE Arca, Inc. In the Fee Schedules of all of these exchanges, these respective exchanges assess different fee levels based on order origin type in a variety of circumstances.

The Exchange believes that, with respect to complex orders, assessing a fee of \$0.00 for trades on the open is reasonable because it is in line with the fee assessed for straight one-sided trades on the open¹⁰ and is equitable and not unfairly discriminatory because the same fee is assessed to all market participants.

Finally, the Exchange believes that amending Section 1A of the Fees Schedule to clarify that the section applies to straight one-sided orders (as opposed to complex orders) furthers the objectives of Section 6(b)(5)¹¹ of the Act, in that it is designed to avoid investor confusion, thereby removing impediments to and perfecting the mechanism of a free and open market and a national market system. The Exchange operates in a highly competitive market comprised in which [sic] sophisticated and knowledgeable market participants readily can, and do, send order flow to competing exchanges if they deem fee levels at a particular exchange to be excessive. The Exchange believes that the proposed complex order fees it assesses must be competitive with fees assessed on other options exchanges. The Exchange believes that this competitive marketplace impacts the fees present on the Exchange today and influences the proposals set forth above.

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 not necessary or appropriate in furtherance of the purposes of the Act.

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

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

¹⁰ See Exchange Fees Schedule, Section 1A.

¹¹ 15 U.S.C. 78f(b)(5).

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

The Exchange has designated the proposed rule change as establishing or changing a due, fee, or other charge imposed by the Exchange, thereby qualifying the proposal for effectiveness on filing pursuant to Section 19(b)(3)(A)(ii) of the Act¹² and Rule 19b-4(f)(2)¹³ 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-C2-2011-016 on the subject line.

Paper Comments:

¹² 15 U.S.C. 78s(b)(3)(A)(ii).

¹³ 17 CFR 240.19b-4(f)(2).

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

All submissions should refer to File Number SR-C2-2011-016. 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 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-C2-2011-016 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.¹⁴

Elizabeth M. Murphy
Secretary

¹⁴ 17 CFR 200.30-3(a)(12).