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SECURITIES AND EXCHANGE COMMISSION

(Release No. 34-70370; File No. SR-C2-2013-033)

September 11, 2013

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

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 August 30, 2013, 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 the Substance of the Proposed Rule Change

The Exchange proposes to amend its Fees Schedule. 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

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

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

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 Fees Schedule. Specifically, the Exchange proposes to adopt a set of fees for the Russell 2000 Index (“RUT”), both for simple and complex orders (and to specify that the current fees that apply to multiply-listed index, ETF and ETN options classes do not apply to RUT). For simple, non-complex RUT orders, the Exchange proposes to assess the following per-contract fees structure (rebates in parentheses):

	<b>Maker</b>	<b>Taker Fee</b>
Public Customer	(\$.75)*	\$.80
C2 Market-Maker	\$.00	\$.80
All Other Origins (Professional Customer, Firm, Broker/Dealer, non-C2 Market-Maker, JBO, etc.)	\$.50	\$.80
Trades on the Open	\$.00	\$.00

As with simple, non-complex orders in other multiply-listed index, ETF and ETN options classes, rebates do not apply to orders that trade with Public Customer complex orders. In such a circumstance, there will be no fee or rebate (since Public Customer complex orders also receive rebates pursuant to the proposed changes). The Exchange believes that providing a rebate for Public Customer Maker orders, and assessing no fee for Market-Maker Maker orders, will incentivize the entry of such orders (which will provide more trading opportunities for all market participants wishing to Take such orders). Further, market participants often prefer to trade against Public Customer orders, and providing a rebate for Public Customer Maker orders will encourage Public Customers to enter such orders, giving other market participants more

opportunities to Take these preferable orders. The Exchange’s proposed Taker fee is intended to be competitive with other exchanges, which assess higher Taker fees for RUT,<sup>3</sup> and which also assess a higher RUT License Surcharge fee than the amount the Exchange proposes to assess herein.<sup>4</sup>

For complex orders in RUT, the Exchange proposes to assess the following per-contract fees structure (rebates in parentheses):

	<b>Maker Fee/(Rebate)</b>	<b>Taker Fee/(Rebate)</b>
Public Customer	(\$ .75)*	(\$ .75)*
C2 Market-Maker	\$.85	\$.85
All Other Origins (Professional Customer, Firm, Broker/Dealer, non- C2 Market-Maker, JBO, etc.)	\$.85	\$.85
Trades on the Open	\$.00	\$.00

As with complex orders in other multiply-listed index, ETF and ETN options classes, a rebate will only apply to Public Customer complex orders that trade with non-Public Customer complex orders. In other circumstances, there will be no Maker or Taker fee or rebate. The Exchange believes that providing a rebate for Public Customer orders will incentivize Public Customers to execute such orders (which will provide more trading opportunities for all market participants wishing to trade with such orders). Further, market participants often prefer to trade against Public Customer orders, and providing a rebate for Public Customer orders will encourage Public Customers to effect such orders, giving other market participants more opportunities to trade with these preferable orders. The Exchange’s proposed Taker fee is

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<sup>3</sup> See NYSE Arca, Inc. (“Arca”) Fee Schedule, Section titled “Trade-Related Charges for Standard Options”, Transaction Fee table describing Electronic Executions in Non Penny Pilot Issues.

<sup>4</sup> See Arca Fee Schedule, Royalty Fees table.

intended to be competitive with other exchanges, which assess higher similar fees for RUT,<sup>5</sup> and which also assess a higher RUT License Surcharge fee than the amount the Exchange proposes to assess herein.<sup>6</sup>

As with both simple and complex orders in other multiply-listed index, ETF and ETN options classes, the Exchange proposes to not assess any fee for RUT Trades on the Open (either simple or complex).

The Exchange also proposes to adopt a \$0.30 per contract RUT Index License Surcharge Fee that will apply to all non-Public Customer transactions. The RUT Index License Surcharge Fee charged by the Exchange reflects the pass-through charges associated with the licensing of RUT. The proposed amount of the Index License Surcharge Fee for RUT of \$0.30 per contract is a reflection of the cost the Exchange has incurred in securing a license agreement from the index provider. Absent the license agreement, the Exchange and its participants would be unable to trade RUT options and would lose the ability to hedge small cap securities with a large notional value, European-style cash-settled index option. Other exchanges assess a higher RUT surcharge fee than the Exchange.<sup>7</sup> The Exchange proposes to exempt Public Customers from this fee because the Exchange believes that this will incentivize Public Customers to send RUT orders to the Exchange, and because other market participants prefer to trade with Public Customers. Therefore, this should provide increased volume and greater liquidity (benefitting all market participants), and more trading opportunities for these other market participants to trade with these Public Customer orders with which they prefer trading.

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<sup>5</sup> See Arca Fee Schedule, Section titled “Electronic Complex Order Executions”. Note that RUT is a Non-Penny Pilot Issue.

<sup>6</sup> See Arca Fee Schedule, Royalty Fees table.

<sup>7</sup> See SR-NYSEMKT-2013-65, which increased the NYSE MKT LLC (“AMEX”) Royalty Fee for RUT from \$0.15 per contract to \$0.40 per contract.

The proposed changes are to take effect on September 3, 2013.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with 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 Section 6(b)(4) of the Act,<sup>9</sup> which requires that Exchange rules provide for the equitable allocation of reasonable dues, fees, and other charges among its Trading Permit Holders and other persons using its facilities.

The Exchange believes that the proposed Maker fees for RUT simple orders are reasonable because Public Customers will be able to receive a rebate instead of paying a fee, C2 Market-Makers will be able to avoid paying a fee, and orders from all other origins will be assessed a fee amount that is within the Exchange's normal range of fees, and is the same as the amount assessed by other exchanges.<sup>10</sup> The Exchange believes it is equitable and not unfairly discriminatory to provide a rebate to Public Customers because the Exchange believes that this will incentivize Public Customers to send RUT orders to the Exchange, and because other market participants prefer to trade with Public Customers. Therefore, this should provide increased volume and greater liquidity (benefitting all market participants), and more trading opportunities for these other market participants to trade with these Public Customer orders with which they prefer trading. Further, there is a history within the options industry of providing

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

<sup>9</sup> 15 U.S.C. 78f(b)(4).

<sup>10</sup> See Arca Fee Schedule, Section titled "Trade-Related Charges for Standard Options", Transaction Fee table describing Electronic Executions in Non Penny Pilot Issues, which shows that Firms and Broker-Dealers are assessed a \$0.50 Maker fee for RUT transactions.

preferential pricing for Public Customers, and this fact is evidenced in the fee schedules of many options exchanges, (including C2). The Exchange believes that assessing no fee for C2 Market-Maker RUT Maker orders is equitable and not unfairly discriminatory because this will incentivize C2 Market-Makers to execute RUT orders on the Exchange, thereby providing increased volume and greater liquidity, which benefits all market participants. Further, C2 Market-Makers undertake certain obligations, such as quoting obligations, that other market participants do not have. The Exchange believes that it is reasonable, equitable and not unfairly discriminatory to apply to simple Public Customer Maker RUT orders the clause that states that “rebates do not apply to orders that trade with Public Customer complex orders. In such a circumstance, there will be no fee or rebate” because these Public Customer orders will still not be assessed a fee, and because it would not be economically viable to provide a rebate on both sides of an order when no fee is being collected. Further, this clause applies to simple Public Customer Maker orders in all other multiply-listed index, ETF and ETN options classes. The Exchange believes that the proposed Taker fees for RUT simple orders are reasonable, equitable and not unfairly discriminatory because they are lower than those assessed by other exchanges<sup>11</sup> and because they are equivalent for all market participants.

The Exchange believes that its proposed rebates for Public Customer complex RUT orders are reasonable because they will allow Public Customer to receive a rebate for such orders instead of paying a fee. The Exchange believes that it is reasonable, equitable and not unfairly discriminatory to apply to complex Public Customer RUT orders the clause that states that “a rebate will only apply to Public Customer complex orders that trade with non-Public Customer complex orders. In other circumstances, there will be no Maker or Taker fee or rebate” because

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<sup>11</sup> See Arca Fee Schedule, Section titled “Trade-Related Charges for Standard Options”, Transaction Fee table describing Electronic Executions in Non Penny Pilot Issues

these Public Customer orders will still not be assessed a fee, and this would prevent a situation in which a rebate would be given on both sides of an order when a fee is not assessed (such situations not being economically viable). Further, this clause applies to complex Public Customer orders in all other multiply-listed index, ETF and ETN options classes. The Exchange believes that its proposed fees for complex RUT orders originating from all other origins (including C2 Market-Makers) are reasonable because they are the same amount of the fees assessed for complex RUT transactions to similar market participants at other exchanges.<sup>12</sup> The Exchange believes that these fees are equitable and not unfairly discriminatory because they will be applied equally to all market participants who qualify for such fees. The Exchange believes that it is equitable and not unfairly discriminatory to provide rebates for complex Public Customer RUT orders because the Exchange believes that this will incentivize Public Customers to execute RUT orders to the Exchange, and because other market participants prefer to trade with Public Customers. Therefore, this should provide increased volume and greater liquidity (benefitting all market participants), and more trading opportunities for these other market participants to trade with these Public Customer orders with which they prefer trading. Further, there is a history within the options industry of providing preferential pricing for Public Customers, and this fact is evidenced in the fee schedules of many options exchanges, (including C2).

The Exchange believes that it is reasonable to assess no fees for RUT Trades on the Open because this will allow all market participants to avoid paying fees for such trades. The Exchange believes that this is equitable and not unfairly discriminatory because it will apply to

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<sup>12</sup> See Arca Fee Schedule, Section titled “Electronic Complex Order Executions”. Note that RUT is a Non-Penny Pilot Issue.

all market participants, and because the Exchange currently does not assess fees for Trades on the Open for other multiply-listed index, ETF and ETN options.

The Exchange believes that the proposed RUT Index License Surcharge Fee is reasonable because Surcharge Fees charged by the Exchange reflect the pass-through charges associated with the licensing of certain products, including RUT. The proposed amount is therefore a direct result of the amount of the licensing fee charged to the Exchange by the index provider and the owner of the intellectual property associated with the index. This amount is equitable and not unfairly discriminatory because it will be assessed to all market participants to whom the RUT Surcharge Fee applies. Also, other exchanges have recently increased their RUT surcharge fees to an even greater amount than the Exchange's proposed amount.<sup>13</sup> The Exchange believes that it is equitable and not unfairly discriminatory to exempt Public Customers from this fee because the Exchange believes that this will incentivize Public Customers to send RUT orders to the Exchange, and because other market participants prefer to trade with Public Customers. Therefore, this should provide increased volume and greater liquidity (benefitting all market participants), and more trading opportunities for these other market participants to trade with these Public Customer orders with which they prefer trading. Further, there is a history within the options industry of providing preferential pricing for Public Customers, and this fact is evidenced in the fee schedules of many options exchanges, (including C2).

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

C2 does not believe that the proposed fees structure for RUT will impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. While there are circumstances wherein a Public Customer receives a rebate (or, in the case

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<sup>13</sup> See SR-NYSEMKT-2013-65, which increased the AMEX Royalty Fee for RUT from \$0.15 per contract to \$0.40 per contract.

of the Index License Surcharge Fee, is exempt from such fee), the Exchange believes that this will incentivize Public Customers to execute RUT orders to the Exchange, and other market participants prefer to trade with Public Customers. Therefore, these rebates should provide increased volume and greater liquidity (benefitting all market participants), and more trading opportunities for these other market participants to trade with these Public Customer orders with which they prefer trading. Further, there is a history within the options industry of providing preferential pricing for Public Customers, and this fact is evidenced in the fee schedules of many options exchanges, (including C2). While there is also a place within the proposed RUT fees structure in which C2 Market-Makers are not assessed a fee while other market participants are, C2 Market-Makers must undertake certain obligations, such as quoting obligations, that other market participants may not have. Further, the Exchange believes that this will incentivize C2 Market-Makers to execute RUT orders on the Exchange, thereby providing increased volume and greater liquidity, which benefits all market participants.

C2 does not believe that the proposed fees structure for RUT will impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. Indeed, the Exchange's proposed fees structure for RUT is intended to increase competition in RUT. The Exchange believes that its pricing structure is competitive with, and better than, the pricing structure for RUT at other exchanges. For example, when factoring in the lower Index License Surcharge Fee at C2 (and indeed even when not factoring in this difference in some circumstances), the Exchange believes that its RUT pricing is preferable for market participants to that offered at Arca.

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 Act<sup>14</sup> and paragraph (f) of Rule 19b-4<sup>15</sup> 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](mailto:rule-comments@sec.gov). Please include File Number SR-C2-2013-033 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.

All submissions should refer to File Number SR-C2-2013-033. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your

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<sup>14</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>15</sup> 17 CFR 240.19b-4(f).

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 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-C2-2013-033, and should be submitted on or before [insert date 21 days from the date of publication in the Federal Register].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>16</sup>

Kevin M. O'Neill  
Deputy Secretary

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<sup>16</sup> 17 CFR 200.30-3(a)(12).