

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 email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File No. SR-Phlx-2011-178 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 No. SR-Phlx-2011-178. This file number should be included on the subject line if email 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 Web site 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 a.m. and 3 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 No. SR-Phlx-2011-178 and should be submitted on or before January 30, 2012.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>14</sup>

**Kevin M. O'Neill,**

*Deputy Secretary.*

[FR Doc. 2012-95 Filed 1-6-12; 8:45 am]

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-66082; File No. SR-C2-2011-041]

### Self-Regulatory Organizations; C2 Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend the Fees Schedule With Respect to Public Customer Maker/Taker Fee (Rebate) and Connectivity Charges

January 3, 2012.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on December 20, 2011, the C2 Options Exchange, Incorporated ("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

C2 proposes to amend its Fees Schedule. 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'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 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 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 the Statutory Basis for, the Proposed Rule Change

##### 1. Purpose

The Exchange proposes to amend its Fees Schedule. First, the Exchange proposes to amend its Maker and Taker fees and rebates with regards to Public Customer complex orders. Currently, the Exchange provides a Maker rebate of \$0.25 per contract for such orders, and assesses no Taker fee. However, for competitive reasons, the Exchange desires to offer improved pricing for Public Customer complex orders. The International Securities Exchange, LLC ("ISE") provides rebates of \$0.30 per contract for both Makers and Takers for complex orders that trade with non-customer orders in select high-volume, competitive classes.<sup>3</sup> The Exchange hereby proposes to provide a rebate of \$0.35 per contract for both Makers and Takers for complex orders, regardless of with whom such orders trade. By providing a higher rebate, and not limiting with whom such orders can trade nor in which classes the new rebates apply, the Exchange intends to attract a higher volume of customer trades and thereby provide other market participants with higher liquidity and greater trading opportunities.

The Exchange also proposes to increase the fees charged for access to a Network Access Port (1 Gigabyte) to \$500 per month for regular access and \$1000 per month for Sponsored User access. The Exchange recently made a sizable investment to upgrade the equipment involved in the Network Access Port, and thereby proposes to increase the fees in order to recoup such costs and maintain such equipment in the future. The Exchange currently charges a different rate for regular access and Sponsored User access, and merely proposes to increase the rates in equal proportion. Moreover, this change in Network Access Port fees is in line with the amounts assessed for similar access at other exchanges. ISE assesses a fee of \$500 for network access up to and including 1 gigabyte.<sup>4</sup> Chicago Board Options Exchange, Incorporated ("CBOE") also recently submitted a proposed rule change to increase the fees charged for access to a Network Access Port (1 Gigabyte) to \$500 per

<sup>14</sup> 17 CFR 200.30-3(a)(12).

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

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

<sup>3</sup> See ISE Fee Schedule, page 18 (footnote 3).

<sup>4</sup> See ISE Schedule of Fees, page 9.

month for regular access and \$1000 per month for Sponsored User access.<sup>5</sup>

The Exchange also proposes to increase the fees charged for a CMI Login ID and FIX Login ID to \$500 per month for regular access and \$1000 per month for Sponsored User access. Firms may access C2 via either a CMI Client Application Server or a FIX Port, depending on how their systems are configured. As with the Network Access Port, the Exchange recently made a sizable investment to upgrade the equipment involved in the CMI Client Application Servers and FIX Ports, and thereby proposes to increase the fees in order to recoup such costs and maintain such equipment in the future. Moreover, these changes are in line with amounts assessed for connectivity at other exchanges. ISE assesses a FIX fee of \$1200 for a minimum of two monthly login IDs (so, \$600 for one), or a fee of \$2,400 for a higher-volume user.<sup>6</sup> The NASDAQ Stock Market LLC's Options Market ("NOM") assesses a fee of \$500 per FIX port per month, as well.<sup>7</sup> CBOE also recently submitted a proposed rule change proposes to increase the fees charged for a CMI Login ID and FIX Login ID to \$500 per month for regular access and \$1000 per month for Sponsored User access.<sup>8</sup> Regarding the Sponsored User fees, the Exchange currently charges a different rate for regular access and Sponsored User access, and merely proposes to increase the rates in equal proportion.

The proposed changes are to take effect January 1, 2012.

## 2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Act,<sup>9</sup> in general, and furthers the objectives of Section 6(b)(4)<sup>10</sup> of the Act in particular, in that it is designed to provide for the equitable allocation of reasonable dues, fees, and other charges among Trading Permit Holders and other persons using Exchange facilities. The proposed change to increase the Maker and Taker rebates for Public Customer complex orders is reasonable because Public Customers will now be receiving a higher rebate than previously. This proposed change is equitable and not unfairly discriminatory because offering a greater rebate for such orders will attract more customer trading volume to the Exchange, and this greater volume and

liquidity will benefit all market participants, including those non-Public Customer market participants who will now have more opportunities to trade with Public Customer orders. Further, this proposed change is in line with, and even more competitive than, the proposed fees on ISE for similar transactions.<sup>11</sup>

The proposed change to increase the Network Access Port fees is reasonable because the fees are within the same range as those assessed on other exchanges,<sup>12</sup> and because such increase will assist in recouping expenditures recently made by the Exchange to upgrade the connectivity equipment. This proposed change is equitable and not unfairly discriminatory because the fees, as before, will be assessed to all market participants. The proposed changes to increase the fees assessed for CMI Login IDs and FIX Login IDs are also reasonable because such fees are within the same range as those assessed on other exchanges,<sup>13</sup> and because such increases will assist in recouping expenditures recently made by the Exchange to upgrade the connectivity equipment. This proposed change is equitable and not unfairly discriminatory because the fees, as before, will be assessed to all market participants. Assessing higher fees for Sponsored Users is equitable and not unfairly discriminatory because Sponsored Users are able to access the Exchange and use the equipment provided without purchasing a trading permit. As such, Trading Permit Holders who have purchased a trading permit will have a higher level of commitment to transacting business on the Exchange and using Exchange facilities than Sponsored Users.

### 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.

## 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) of the Act<sup>14</sup> and subparagraph (f)(2) 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.

## 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 email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-C2-2011-041 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-C2-2011-041. This file number should be included on the subject line if email 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 Web site viewing and

<sup>5</sup> See SR-CBOE-2011-121.

<sup>6</sup> See ISE Schedule of Fees, page 8 and SR-CBOE-2011-121.

<sup>7</sup> See NOM Rule 7053.

<sup>8</sup> See SR-CBOE-2011-121.

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

<sup>10</sup> 15 U.S.C. 78f(b)(4).

<sup>11</sup> See ISE Schedule of Fees, page 18.

<sup>12</sup> See ISE Schedule of Fees, page 9.

<sup>13</sup> See ISE Schedule of Fees, page 8 and NOM Rule 7053 and also SR-CBOE-2011-121.

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

<sup>15</sup> 17 CFR 240.19b-4(f)(2).

printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 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-C2-2011-041 and should be submitted on or before January 30, 2012.

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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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-66084; File No. SR-ISE-2011-84]

### Self-Regulatory Organizations; International Securities Exchange, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Fees for Certain Complex Orders Executed on the Exchange

January 3, 2012.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Exchange Act" or the "Act")<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that, on December 20, 2011, the International Securities Exchange, LLC (the "Exchange" or the "ISE") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I and II 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 ISE is proposing to amend fees for certain complex orders executed on the Exchange. The text of the proposed rule change is available on the Exchange's Web site (<http://www.ise.com>), at the principal office of

the Exchange, 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 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 these statements may be examined at the places specified in Item IV below. The self-regulatory organization 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 purpose of this proposed rule change is to amend fees charged by the Exchange for certain orders on two of the most actively-traded index option products, the NASDAQ 100 Index option ("NDX") and the Russell 2000 Index option ("RUT").

For trading in NDX and RUT, for both regular and complex orders, the Exchange currently charges \$0.20 per contract for firm proprietary orders and Customer (Professional Orders),<sup>3</sup> and \$0.45 per contract for Non-ISE Market Maker<sup>4</sup> orders. ISE market maker orders<sup>5</sup> in these two symbols are subject to a sliding scale, ranging from \$0.01 per contract to \$0.18 per contract, depending on the amount of overall volume traded by a market maker during a month. Market makers also currently pay a payment for order flow (PFOF) fee of \$0.65 per contract when trading against Priority Customers. Priority Customer orders are not charged for trading in NDX and RUT. Options on NDX and RUT are traded on the Exchange pursuant to a license agreement entered into by the Exchange with index providers for NDX and RUT. In addition to the fees noted above, the Exchange currently charges ISE market maker orders, Non-ISE Market Maker orders and firm proprietary orders \$0.22

per contract and \$0.15 per contract for NDX and RUT, respectively, to defray the licensing costs. Because of competitive pressures in the industry, certain customer orders are not charged this surcharge fee. The Exchange's current fee schedule notes that Public Customer Orders are excluded from this surcharge fee. Historically, Public Customer orders were synonymous with retail customer orders. The Exchange now distinguishes retail customers from professional customers, the latter being professional traders who are not market makers or broker/dealers but behave the way that market makers and broker/dealers do. Orders from these customers are identified on the Exchange as Professional Orders. Orders from retail customers are identified on the Exchange as Priority Customer orders. Thus, for the sake of clarity, the Exchange proposes to replace the words "Public" with "Priority" for all the surcharge fees that appear on the Exchange's fee schedule. Thus, Priority Customer orders will remain exempt from this fee, while Professional Orders will be subject to the fee.

The Exchange currently assesses a per contract transaction fee to market participants that add or remove liquidity in the Complex Order Book ("maker/taker fees") in symbols that are in the Penny Pilot program. Included therein is a subset of 103 symbols that are assessed a slightly higher taker fee (the "Select Symbols").<sup>6</sup> Additionally, pursuant to SEC approval which allows market makers to enter quotations for complex order strategies in the Complex Order Book,<sup>7</sup> the Exchange recently adopted maker/taker fees and rebates for orders in the following three symbols: XOP, XLB and EFA.<sup>8</sup>

The Exchange now proposes to extend its maker/taker fees and rebates to complex orders in NDX and RUT. Specifically, for Customer (Professional Orders), firm proprietary and ISE market maker orders, ISE proposes to adopt a "make" fee of \$0.25 per contract and a "take" fee of \$0.70 per contract. For Non-ISE Market Maker orders, ISE proposes to adopt a "make" fee of \$0.25 per contract and a "take" fee of \$0.75 per contract. For crossing complex orders in NDX and RUT, i.e., orders executed in the Exchange's Facilitation Mechanism, Solicited Order Mechanism, Block Order Mechanism and Price Improvement Mechanism, and

<sup>3</sup> The term "Professional Order" means an order that is for the account of a person or entity that is not a Priority Customer. See ISE Rule 100(a)(37C).

<sup>4</sup> The term "Non-ISE Market Maker" means a market maker as defined in Section 3(a)(38) of the Securities Exchange Act of 1934 (the "Act") registered in the same options class on another options exchange. See Schedule of Fees, page 4.

<sup>5</sup> The term "market makers" refers to "Competitive Market Makers" and "Primary Market Makers" collectively. See ISE Rule 100(a)(25).

<sup>6</sup> The Select Symbols are identified by their ticker symbol on the Exchange's Schedule of Fees.

<sup>7</sup> See Securities Exchange Act Release No. 65548 (October 13, 2011), 76 FR 64980 (October 19, 2011) (SR-ISE-2011-39).

<sup>8</sup> See Securities Exchange Act Release No. 65958 (December 15, 2011) (SR-ISE-2011-81).

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

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

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