circuit breakers pilot until April 8, 2013 to allow the pilot period to begin and end at the same time as the LULD Plan, which contributes to the protection of investors and the public interest. Other competing equity exchanges are subject to the same methodology for determining when to halt trading in all stocks due to extraordinary market volatility and the same requirements specified in the LULD Plan. Thus, the proposed changes will not impose any burden on competition while providing that the market-wide circuit breakers pilot period corresponds to the pilot period for the LULD Plan so that the impact of the two proposals can be reviewed together.

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 Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act [11] and Rule 19b–4(f)(6) thereunder.[12] Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6)(iii) thereunder.

A proposed rule change filed under Rule 19b–4(f)(6)[13] normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b–4(f)(6)(iii),[14] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest. Doing so will delay the operative date of the market-wide circuit breakers pilot until the initial date of operations of the LULD Plan, thereby allowing the pilot to run simultaneously with the LULD Plan, providing an opportunity to properly assess the impact of the two pilots on the marketplace and evaluate the pilots' effectiveness. Therefore, the Commission hereby waives the 30-day operative delay and designates the proposal operative upon filing.[15]

At any time within 60 days of the filing of such 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 shall institute proceedings under Section 19(b)(2)(B)[16] of the Act 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 email to rule-comments@sec.gov. *Please include File Number SR–NYSEMKT–2013–08 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–NYSEMKT–2013–08.* 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 10:00 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–NYSEMKT–2013–08 and should be submitted on or before February 27, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[17]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–02629 Filed 2–5–13; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–68791; File No. SR–BATS–2013–007]

Self-Regulatory Organizations; BATS Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend BATS Rules Related to Price Sliding Functionality

January 31, 2013.

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 January 25, 2013, BATS Exchange, Inc. (the "Exchange" or "BATS") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Exchange has designated this proposal as a "non-controversial" proposed rule change pursuant to Section 19(b)(3)(A) of the

[11] 15 U.S.C. 78s(b)(3)(A)(iii).

[12] 17 CFR 240.19b–4(f)(6).

[13] 17 CFR 240.19b–4(f)(6).

[14] 17 CFR 240.19b–4(f)(6)(iii).

[15] For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[16] 15 U.S.C. 78s(b)(2)(B).

[17] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

Act[3] and Rule 19b–4(f)(6)(iii) thereunder,[4] which renders it effective upon filing with the Commission. 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 is proposing to amend Rule 11.9, entitled ''Orders and Modifiers'', and Rule 21.1, entitled ''Definitions'', to modify the operation of the Exchange's price sliding functionality described in Rules 11.9 and 21.1 applicable to the BATS equity securities trading platform (''BATS Equities'') and the BATS equity options trading platform (''BATS Options''), respectively.

The text of the proposed rule change is available at the Exchange's Web site at *http://www.batstrading.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 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 parts 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 currently offers various forms of sliding which, in all cases, result in the ranking and/or display of an order at a price other than an order's limit price in order to comply with applicable securities laws and/or Exchange rules. Specifically, the Exchange currently offers price sliding to ensure compliance with Regulation NMS and Regulation SHO for BATS Equities, as well as price sliding for BATS Options to ensure compliance rules analogous to Regulation NMS adopted by the Exchange and other options exchanges. Price sliding currently offered by the Exchange re-prices and displays an order upon entry and in certain cases again re-prices and re-displays an order at a more aggressive price based on changes in the national best bid (''NBB'') or national best offer (''NBO'', and together with the NBB, the ''NBBO''). As described below, the Exchange proposes to modify the operation of display-price sliding in the event the Exchange displays an order subject to price sliding as a Protected Quotation[5] and such order's displayed price is locked or crossed by another equities market or options exchange, as applicable.

Under the Exchange's current rules for BATS Equities, if, at the time of entry, an order would lock or cross a Protected Quotation displayed by another trading center the Exchange ranks orders subject to display-price sliding at the locking price and displays such orders at one minimum price variation below the current NBO (for bids) or to one minimum price variation above the current NBB (for offers). Following the initial ranking and display of an order subject to display-price sliding, an order is typically only re-ranked and re-displayed to the extent it achieves a more aggressive price. However, the Exchange proposes to re-rank an order at the same price as the displayed price (i.e., a less aggressive price) in the event such order's displayed price is locked or crossed by a Protected Quotation of an external market.[6] This will avoid the potential of a ranked price that crosses the Protected Quotation displayed by such external market, which could, in turn, lead to a trade through of such Protected Quotation at such ranked price. The Exchange notes that, as described below, when an external market crosses the Exchange's Protected Quotation and the Exchange's Protected Quotation is a displayed order subject to price sliding, the Exchange proposes to re-rank such order at the displayed price. Thus, the order displayed by the Exchange will still be ranked and permitted to execute at a price that crosses the other market's Protected Quotation, which is consistent with Rule 611(b)(4) of Regulation NMS.[7]

As an example of the behavior described above, assume the Exchange has a posted and displayed bid to buy 100 shares of a security priced at $10.10 per share and a posted and displayed offer to sell 100 shares at $10.13 per share. Assume the NBBO is $10.10 by $10.12. If the Exchange receives a non-routable bid to buy 100 shares at $10.12 per share the Exchange will rank the order to buy at $10.12 and display the order at $10.11 because displaying the bid at $10.12 would lock an external market's Protected Offer to sell for $10.12. If an external market then updated its Protected Offer to $10.11, thus locking the Exchange's displayed bid (i.e., the order subject to price sliding that is ranked at $10.12 and displayed at $10.11), then the Exchange proposes to modify the ranked price of such bid to the same price as the displayed price (i.e., $10.11). By re-ranking the bid in this example to $10.11, the Exchange will not allow an order to maintain a ranked price that is crossing the NBO when the displayed price of such order is locking the NBO, and thus, such order will not have the ability to trade through the NBO if the Exchange receives a marketable contra-side offer during the locked market condition.

The Exchange notes that as proposed when an external market publishes a Protected Quotation that *crosses* an order displayed by the Exchange, the Exchange has proposed to slide the ranked price of its displayed order to

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(6)(iii).

[5] As defined in BATS Rule 1.5(t), applicable to BATS Equities, a ''Protected Quotation'' is ''a quotation that is a Protected Bid or Protected Offer.'' In turn, the term ''Protected Bid'' or ''Protected Offer'' means ''a bid or offer in a stock that is (i) displayed by an automated trading center; (ii) disseminated pursuant to an effective national market system plan; and (iii) an automated quotation that is the best bid or best offer of a national securities exchange or association.'' As defined in BATS Rule 27.1, applicable to BATS Options, a ''Protected Quotation'' is ''a Protected Bid or Protected Offer.'' In turn, the term ''Protected Bid'' or ''Protected Offer'' means ''a Bid or Offer in an options series, respectively, that: (A) Is disseminated pursuant to the OPRA Plan; and (B) Is the Best Bid or Best Offer, respectively, displayed by an Eligible Exchange.'' An ''Eligible Exchange'' is defined in Rule 27.1 as ''a national securities exchange registered with the SEC in accordance with Section 6(a) of the Exchange Act that: (a) is a Participant Exchange in OCC (as that term is defined in Section VII of the OCC by-laws); (b) is a party to the OPRA Plan (as that term is described in Section I of the OPRA Plan); and (c) if the national securities exchange chooses not to become a party to this Plan, is a participant in another plan approved by the Commission providing for comparable Trade-Through and Locked and Crossed Market protection.''

[6] The Exchange notes that as a general matter Regulation NMS should prevent external markets from displaying Protected Quotations that lock or cross Protected Quotations displayed by the Exchange. However, in a dynamic market, such an event can and does happen for a variety of reasons. For example, if the Exchange updates its Protected Quotation for a security at the same time another market updates its contra-side Protected Quotation, it is possible that such quotations lock or cross each other. Neither the Exchange nor the other market would know in this circumstance that such quotations would lock or cross each other when publishing their quotation updates. As another example, in the event another market receives an intermarket sweep order, such market may permissibly display such order without regard to other Protected Quotations, including quotations displayed by the Exchange that lock or cross such order.

[7] 17 CFR 242.611(b)(4).

the displayed price. Thus, an order will still be permitted to be ranked at a price that crosses an external market's Protected Quotation, and could thus trade through such quotation if executed. For instance, using the example above, assume that the NBBO is $10.10 by $10.12 and the Exchange has a price slid bid to buy 100 shares that is ranked at $10.12 and displayed at $10.11. If an external market then updated its Protected Offer to $10.10, thus crossing the Exchange's displayed bid (i.e., the order subject to price sliding that is ranked at $10.12 and displayed at $10.11), then the Exchange will modify the ranked price of such bid to the same price as the displayed price (i.e., $10.11). The order displayed by the Exchange will be permitted to remain executable at a price that crosses the other market's Protected Offer. The Exchange has proposed this functionality because it is consistent with its proposed functionality when an external market *locks* the Exchange's Protected Quotation. While the Exchange believes such an order should still be permitted to execute pursuant to the exception in Regulation NMS when the market is crossed, and does not believe that the displayed price of its Protected Quotations should be adjusted based on another market published Protected Quotations that lock or cross such quotations, the Exchange believes that executing such an order at the displayed price of such order is a better result because the existence of a crossing quotation is evidence of some price discrepancy in the market. The Exchange also believes that consistency between the functionality when the Exchange's quotation is locked and when the Exchange's quotation is crossed is preferable.[8]

The Exchange also proposes to make clear that this re-ranking will not result in a change in priority for the order at its displayed price. For instance, in the example above, assume the bid described had been posted and displayed at $10.11 and ranked at $10.12 (''Order A''), and then a later arriving bid is received by the Exchange at $10.11 (''Order B'') and posted as well, with priority behind Order A. If the Exchange then re-ranks Order A because it has been locked or crossed by another market center's Protected Quotation, the Exchange does not believe it would be fair to cause such order to lose priority when it was originally first in priority amongst displayed orders on the Exchange.

As set forth in the Exchange's current price sliding rules, the ranked and displayed prices of an order subject to display-price sliding may be adjusted once or multiple times depending upon the instructions of a User[9] and changes to the prevailing NBBO. The Exchange's default price sliding process slides and ranks an order on entry so that it is ranked at the locking price and displayed at one price less aggressive and then unslides the order so that it is displayed at the ranked/locking price one time if such display becomes permissible. Multiple price sliding continues to rank and display orders at the most aggressive permissible prices based on changes to the NBBO. Multiple price sliding is optional and must be explicitly selected by a User before it will be applied. The Exchange proposes to make clear that, in connection with the changes above, if an order subject to the Exchange's default price sliding process has been locked or crossed by a Protected Quotation of an external market then the Exchange will adjust the ranked price of such order and it will not be further re-ranked or re-displayed at any other price. While in most circumstances the Exchange unslides orders subject to price sliding to a more aggressive price when permissible, in this limited circumstance, when such an order's displayed price is locked or crossed by an external market the Exchange will be sliding the ranked price to the less aggressive displayed price and will not further unslide the order. Orders subject to the optional multiple price sliding process will be further re-ranked and re-displayed as permissible based on changes to the prevailing NBBO. Thus, once slid, an order subject to multiple price sliding, including its ranked price, will be slid to more aggressive prices as permissible.

As a continuation of the example above, assume that the NBBO is $10.10 by $10.12 and the Exchange has a price slid bid to buy 100 shares that is ranked at $10.12 and displayed at $10.11. If an external market then updated its Protected Offer to $10.11, thus locking the Exchange's displayed bid (i.e., the order subject to price sliding that is ranked at $10.12 and displayed at $10.11), then the Exchange will modify the ranked price of such bid to the same price as the displayed price (i.e., $10.11). If a User has selected the default price sliding process then the order will not further re-rank or re-display such order, even if the NBO moves back to $10.12 such that the order could again be ranked at that price. However, if a User has opted into multiple price sliding, the Exchange will re-rank such order at $10.12 (still displayed at $10.11), and if the NBO then moved to $10.13, the Exchange will re-display such order at $10.12.

BATS Options—Display-Price Sliding

In order to maintain consistency between analogous processes offered by BATS Equities and BATS Options, the Exchange proposes to modify the rules of BATS Options to conform with the changes described above related to display-price sliding. Accordingly, the Exchange proposes to modify Rule 21.1(h), which is based on Rule 11.9, as amended. Proposed Rule 21.1(h) relates to display-price sliding offered to ensure compliance with locked and crossed market rules relevant to participation on BATS Options. As proposed, in order to adopt a similar change for BATS Options display-price sliding, Rule 21.1(h) will provide that an order will only be re-ranked and re-displayed to the extent it achieves a more aggressive price, provided, however, that the Exchange will re-rank an order at the same price as the displayed price in the event such order's displayed price is locked or crossed by a Protected Quotation of another options exchange. Such event will not result in a change in priority for the order at its displayed price. As is true for BATS Equities, display-price sliding for BATS Options will default to re-ranking such an order only once unless a User opts-in to multiple price sliding. As drafted, the amendments to Rule 21.1(h) are identical to the amendments proposed for Rule 11.9 as described above with the exception of minor references necessary due to the difference between rules applicable to BATS Equities and BATS Options.

2. Statutory Basis

The rule change proposed in this submission is consistent with the requirements of the Act and the rules and regulations thereunder that are applicable to a national securities exchange, and, in particular, with the requirements of Section 6(b) of the Act.[10] Specifically, the proposed change is consistent with Section 6(b)(5) of the Act,[11] because it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to, and

[8] *Id.*

[9] As defined in BATS Rule 1.5(cc), a User is ''any Member or Sponsored Participant who is authorized to obtain access to the System pursuant to Rule 11.3.''

[10] 15 U.S.C. 78f(b).

[11] 15 U.S.C. 78f(b)(5).

perfect the mechanism of, a free and open market and a national market system.

The Exchange believes that the proposed changes to price sliding are consistent with Section 6(b)(5) of the Act,[12] as well as Rules 610 and 611 of Regulation NMS.[13] The Exchange is not modifying the overall functionality of price sliding, which, to avoid locking or crossing quotations of other market centers, displays orders at permissible prices while retaining a price at which the User is willing to buy or sell, in the event display at such price or an execution at such price becomes possible. Instead, the Exchange is making changes to ensure that if the Exchange's own Protected Quotation is a price slid order that is locked or crossed by an external market's Protected Quotation, that [sic] the Exchange will re-rank such order so that its displayed price is the same as its ranked price.

Rule 610(d) requires exchanges to establish, maintain, and enforce rules that require members reasonably to avoid ''[d]isplaying quotations that lock or cross any protected quotation in an NMS stock.'' [14] Such rules must be ''reasonably designed to assure the reconciliation of locked or crossed quotations in an NMS stock,'' and must ''prohibit * * * members from engaging in a pattern or practice of displaying quotations that lock or cross any quotation in an NMS stock.'' [15] Thus, display-price sliding offered by the Exchange, including the functionality offered for BATS Options, assists Users by displaying orders at permissible prices.

Rule 611 requires trading centers to ''establish, maintain, and enforce written policies and procedures that are reasonably designed to prevent trade-throughs on that trading center of protected quotations'' unless an exception applies. The Exchange believes that the proposal to modify its price sliding functionality to prevent the ranked prices of orders subject to price sliding from working at a price that could trade through other market centers when the Exchange's quotation is locked is consistent with this Rule 611. Similarly, although a trade through would be permissible if the Exchange's quotation is crossed by another market center based on an applicable exception, the Exchange believes that the proposal to re-rank orders in such a circumstance to the displayed price is consistent with the protection of investors and the public interest.

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

The proposed rule change does not impose any burden on competition. To the contrary, the proposal will ensure that the Exchange's processes are designed to prevent trade throughs consistent with Regulation NMS in the event the Exchange's own quotations are locked or crossed by external markets.

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

The Exchange has neither solicited nor received written comments on the proposed rule change.

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

Because the proposed rule change does not (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [16] and Rule 19b–4(f)(6) thereunder.[17]

A proposed rule change filed pursuant to Rule 19b–4(f)(6) under the Act [18] normally does not become operative for 30 days after the date of its filing. However, Rule 19b–4(f)(6) [19] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay, noting that doing so will allow the Exchange to immediately enhance its price sliding functionality to avoid potential trade throughs when the Exchange's quotation is locked by an external market. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest. Therefore, the Commission hereby waives the 30-day operative delay and designates the proposal operative upon filing.[20]

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*. Please include File Number SR–BATS–2013–007 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.

All submissions should refer to File Number SR–BATS–2013–007. 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 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for

[12] *Id.*

[13] 17 CFR 242.610; 17 CFR 242.611.

[14] 17 CFR 242.610(d).

[15] *Id.*

[16] 15 U.S.C. 78s(b)(3)(A).

[17] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[18] 17 CFR 240.19b–4(f)(6).

[19] 17 CFR 240.19b–4(f)(6).

[20] For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

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–BATS–2013–007 and should be submitted on or before February 27, 2013].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[21]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–02559 Filed 2–5–13; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–68792; File No. SR–C2–2013–004]

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

January 31, 2013.

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 January 24, 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 Substance of the Proposed Rule Change

The Exchange proposes to amend the Fees Schedule. The text of the proposed rule change is available on the Exchange's Web site (*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.

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 transaction fees for simple, non-complex orders in equity options classes (all of which may be listed on other exchanges as well as C2). Going forward, fees will be calculated based on the following formula (fees are calculated on a per-contract basis): Fee = (C2 BBO Market Width at time of execution) × (Market Participant Rate) × 50. The C2 BBO Market Width is the difference between the quoted best offer and best bid in each class on C2 (the displayed C2 ask price minus the displayed C2 bid price). The Market Participant Rates are different rates for different types of market participants, as follows:

Market Participant	Rate (percent)
C2 Market-Maker	30
Public Customer (Maker)	40
All other origins	50

The Exchange multiplies the C2 BBO Market Width and the Market Participant Rate by 50 because this allows C2 to reach a per-contract amount that takes into account half of the C2 BBO Market Width. The use of 50 as a multiplier is mathematically equivalent to the nominal C2 BBO Market Width divided by two, academically making the assumption that the theoretical value of the difference between the ask price and the bid price is the midpoint between the two. For purposes of this fee structure, the Exchange will be using the BBO as calculated by C2. The fee does not apply to Public Customer Takers because they will be receiving a rebate for such transactions (to be described later in this proposed rule change).

The Exchange uses different Market Participant Rates for different market participants as a function of each market participant's obligations and responsibilities in the relevant class, as well as to provide incentives for Market-Makers to quote in a manner that narrows bid-ask spreads, which promotes market liquidity and therefore enhances market quality. C2 Market-Makers purchase permits and have quoting obligations, thereby justifying a lower Market Participant Rate. Public Customers have a lower Market Participant Rate than orders originating from other origins (other than C2 Market-Makers) because Public Customer order flow is a desirable commodity for all options exchanges and the Exchange seeks to attract such order flow. Further, Public Customers do not have access to many of the resources (such as technology, capital treatment, etc.) that other market participants may more easily access. Moreover, assessing different fee rates to different types of market participants is a common practice within the options industry, and many options exchanges, including C2, currently do so.[3]

The maximum fee for simple, non-complex orders in all equity options classes will be $0.85 per contract because, notwithstanding the tenets of the overall proposal, the Exchange does not want to have fees and rebates match or exceed the minimum trading increment ($0.01 x the 100 multiplier, or $1.00 per contract). This maximum fee amount is reasonable because, among other things, the fee will not always be assessed for the maximum amount. The fee will only be for the maximum amount when the BBO Market Width is wide. Otherwise, the fee will be smaller. Indeed, the purpose of the proposed new fees structure is to encourage tighter quoting by linking lower fees to such tighter quoting. A maximum fee amount is necessary to prevent fees from becoming prohibitively high in the event of a wide BBO Market Width. A maximum fee amount of $0.85 per contract is reasonable because it is lower than the minimum trading increment. The Commission has, in the past, noted the argument that a maximum fee of $0.99 per contract or lower may be viable

[21] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* current C2 Fees Schedule, Section 1, which lists lower transaction fees for Public Customers than other market participants. *See also* Chicago Board Options Exchange, Incorporated (''CBOE'') Fees Schedule, Rate Tables on pages 1–2, which list lower transaction fees for Customers and CBOE Market-Makers than other market participants. *See also* International Securities Exchange, LLC (''ISE'') Schedule of Fees, Section 1, which lists lower transaction fees for Customers and ISE Market-Makers than other market participants.