

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-C2-2012-021 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-C2-2012-021. 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 Number SR-C2-2012-021 and should be submitted by July 26, 2012.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁵

Kevin M. O'Neill,
Deputy Secretary.

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¹⁵ 17 CFR 200.30-3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-67302; File No. SR-CBOE-2012-061]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to the Exchange's Automated Improvement Mechanism

June 28, 2012.

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 June 26, 2012, the Chicago Board Options Exchange, Incorporated ("Exchange" or "CBOE") 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 filed the proposal as a "non-controversial" proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act³ and Rule 19b-4(f)(6) thereunder,⁴ which renders the proposed rule change 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 proposes to amend its rules related to its Automated Improvement Mechanism ("AIM"). The text of the proposed rule change is available on the Exchange's Web site (<http://www.cboe.com/AboutCBOE/CBOELegalRegulatoryHome.aspx>), 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

In February 2006, CBOE obtained approval from the Commission to adopt the AIM auction process.⁵ In March 2012, CBOE obtained approval from the Commission to adopt a substantially similar AIM auction process for Flexible Exchange Options ("FLEX Options").⁶ AIM exposes certain orders electronically to an auction process to provide these orders with the opportunity to receive an execution at an improved price. The AIM auction is available only for orders that an Exchange Trading Permit Holder represents as agent ("Agency Order") and for which a second order of the same size as the Agency Order (and on the opposite side of the market) is also submitted (effectively stopping the Agency Order at a given price).

With respect to non-FLEX Options, the Commission approved two components of AIM on a pilot basis: (1) That there is no minimum size requirement for orders to be eligible for the auction; and (2) that the auction will conclude prematurely anytime there is a quote lock on the Exchange pursuant to Rule 6.45A(d).⁷ With respect to FLEX Options, the Commission approved on a pilot basis the component of AIM that there is no minimum size requirement for orders to be eligible for the auction.⁸ In connection with the pilot programs, the Exchange has submitted to the Commission reports providing detailed AIM auction and order execution data, and the Exchange will continue to submit to the Commission these reports. Six one-year extensions to the non-

⁵ See Securities Exchange Act Release No. 53222 (February 3, 2006), 71 FR 7089 (February 10, 2006) (SR-CBOE-2005-060).

⁶ See Securities Exchange Act Release No. 66702 (March 30, 2012), 77 FR 20675 (April 5, 2012) (SR-CBOE-2011-123). FLEX Options provide investors with the ability to customize basic option features including size, expiration date, exercise style, and certain exercise prices. The rules governing the trading of FLEX Options on the FLEX Request for Quote (RFQ) System platform are contained in Chapter XXIVA. The rules governing the trading of FLEX Options on the FLEX Hybrid Trading System platform are contained in Chapter XXIVB.

⁷ A quote lock occurs when a CBOE Market-Maker's quote interacts with the quote of another CBOE Market-Maker (i.e. when internal quotes lock).

⁸ The pilot for the FLEX AIM auction process was modeled after the existing pilot for non-FLEX Options, and included an expiration date of July 18, 2012 so that the FLEX pilot would coincide with the existing non-FLEX pilot.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 15 U.S.C. 78s(b)(3)(A)(iii).

⁴ 17 CFR 240.19b-4(f)(6).

FLEX pilot programs have previously become effective.⁹ The proposed rule change merely extends the duration of the non-FLEX and FLEX pilot programs until July 18, 2013. Extending the pilots for an additional year will allow the Commission more time to consider the impact of the pilot programs on AIM order executions.

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.¹⁰ Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)¹¹ requirements that the rules of an exchange be designed to promote just and equitable principles of trade, to prevent fraudulent and manipulative acts, to remove impediments to and to perfect the mechanism for a free and open market and a national market system, and, in general, to protect investors and the public interest.

In particular, the proposed rule change protects investors and the public interest by allowing for an extension of the AIM pilot programs, and thus allowing additional time for the Commission to evaluate the AIM pilot programs. The AIM pilot programs will continue to allow (1) smaller orders to receive the opportunity for price improvement pursuant to the AIM auction (for non-FLEX and FLEX Options), and (2) Agency Orders in AIM auctions that are concluded early because of quote lock on the Exchange to receive the benefit of the lock price (for non-FLEX Options).

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

CBOE 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.

⁹ See Securities Exchange Act Release Nos. 54147 (July 14, 2006), 71 FR 41487 (July 21, 2006) (SR-CBOE-2006-064); 56094 (July 18, 2007), 72 FR 40910 (July 25, 2007) (SR-CBOE-2007-080); 58196 (July 18, 2008), 73 FR 43803 (July 28, 2008) (SR-CBOE-2008-076) (in this filing, the Exchange agreed to provide to the Commission additional information relating to the AIM auctions each month in order to aid the Commission in its evaluation of the pilot program, which the Exchange will continue to do); 60338 (July 17, 2009), 74 FR 36803 (July 24, 2009) (SR-CBOE-2009-051); 62522 (July 16, 2010), 75 FR 43596 (July 26, 2010) (SR-CBOE-2010-067); and 64930 (July 20, 2011), 76 FR 44636 (July 26, 2011) (SR-CBOE-2011-066).

¹⁰ 15 U.S.C. 78f(b).

¹¹ 15 U.S.C. 78f(b)(5).

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 Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act¹² and Rule 19b-4(f)(6) thereunder.¹³ 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) by its terms, 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 upon filing with the Commission pursuant to Section 19(b)(3)(A) of the Act¹⁴ and Rule 19b-4(f)(6)(iii) thereunder.¹⁵

The Exchange has requested that the Commission waive the 30-day operative delay period. The Commission believes that waiver of the 30-day operative delay period is consistent with the protection of investors and the public interest because such waiver will allow the AIM pilot programs to continue without interruption. Accordingly, the Commission designates the proposed rule change operative upon filing with the Commission.¹⁶

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

¹² 15 U.S.C. 78s(b)(3)(A)(iii).

¹³ 17 CFR 240.19b-4(f)(6).

¹⁴ 15 U.S.C. 78s(b)(3)(A).

¹⁵ 17 CFR 240.19b-4(f)(6)(iii). In addition, Rule 19b-4(f)(6)(iii) requires the Exchange to give the Commission written notice of the Exchange's 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 met this requirement.

¹⁶ For purposes only of waiving the operative delay for this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

to determine whether the proposed rule 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-CBOE-2012-061 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-CBOE-2012-061. 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 Number SR-CBOE-2012-061 and should be submitted by July 26, 2012.

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

Kevin M. O'Neill,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-67304; File No. SR-BATS-2012-023]

Self-Regulatory Organizations; BATS Exchange, Inc.; Notice of Filing of Proposed Rule Change To Amend BATS Rules 14.2 and 14.3 To Adopt Additional Listing Requirements for Reverse Merger Companies and To Align BATS Rules With the Rules of Other Self-Regulatory Organizations

June 28, 2012.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act" or the "Exchange Act"),¹ and Rule 19b-4 thereunder,² notice is hereby given that on June 15, 2012, 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 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 BATS Rules 14.2 and 14.3 to adopt additional listing requirements for a company that has become an Act reporting company by combining either directly or indirectly with a public shell, whether through a Reverse Merger, exchange offer, or otherwise (a "Reverse Merger"). The text of the proposed rule addition 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 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 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 is proposing to adopt more stringent listing requirements for operating companies that become Exchange Act reporting companies through a Reverse Merger ("Reverse Merger Companies"). In a Reverse Merger, an existing public shell company merges with a private operating company in a transaction in which the shell company is the surviving legal entity. While the public shell company survives the merger, the shareholders of the private operating company typically hold a large majority of the shares of the public company after the merger and the management and board of the private company will assume those roles in the post-merger public company. The assets and business operations of the post-merger are primarily, if not solely, those of the former private operating company. The Exchange understands that private operating companies generally enter into Reverse Merger transactions to enable the company and its shareholders to sell shares in the public equity markets. By becoming a public reporting company via a Reverse Merger, a private operating company can access the public markets quickly and avoid the generally more expensive and lengthy process of going public by way of an initial public offering. While the public shell company is required to report the Reverse Merger in a Form 8-K filing with the Commission, generally there are no registration requirements under the Securities Act of 1933 (the "Securities Act")³ at that point in time, as there would be for an IPO.

Significant regulatory concerns, including accounting fraud allegations, have arisen with respect to a number of Reverse Merger Companies in recent times. The Commission has taken direct action against Reverse Merger Companies. During 2011, the Commission suspended trading in the securities of numerous Reverse Merger

Companies.⁴ The Commission also recently brought an enforcement proceeding against an audit firm relating to its work for Reverse Merger Companies.⁵ In addition, the Commission issued a bulletin on the risks of investing in Reverse Merger Companies, noting potential market and regulatory risks related to investing in Reverse Merger Companies.⁶

BATS Rule 14.2 provides the exchange with "broad discretionary authority over the initial and continued listing of securities on the Exchange in order to maintain the quality of and public confidence in its market, to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and to protect investors and the public interest." BATS Rule 14.2 also provides that the Exchange may use such discretion to "deny initial listing, apply additional or more stringent criteria for the initial or continued listing of particular securities, or suspend or delist particular securities based on any event, condition, or circumstance that exists or occurs that makes initial or continued listing of the securities on the Exchange inadvisable or unwarranted in the opinion of the Exchange, even though the securities meet all enumerated criteria for initial or continued listing on the Exchange." The Exchange may use this discretionary authority to increase the stringency of its stated listing criteria, but not to decrease their stringency.

In light of the well-documented concerns related to some Reverse Merger Companies described above, the Exchange believes that it is appropriate to codify in its rules specific requirements with respect to the initial listing qualification of Reverse Merger Companies. As proposed, a Reverse Merger Company would not be eligible for listing unless the combined entity had, immediately preceding the filing of the initial listing application:

(1) Traded for at least one year in the U.S. over-the-counter market, on another national securities exchange, or on a regulated foreign exchange following the consummation of the Reverse Merger and (i) in the case of a domestic issuer, filed with the Commission a form 8-K including all of the information required by Item 2.01(f) of Form 8-K, including all required audited financial statements; or (ii) in the case of a foreign private issuer, filed

⁴ See Letter from Mary L. Schapiro to Hon. Patrick T. McHenry, dated April 27, 2011 ("Schapiro Letter"), at pages 3-4.

⁵ See Schapiro Letter at page 4.

⁶ See "Investor Bulletin: Reverse Mergers" 2011-123.

¹⁷ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 15 U.S.C. 77a.