

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, as amended, 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-C2-2013-024 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-C2-2013-024. 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-C2-2013-024 and should be submitted on or before July 31, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>9</sup>

**Elizabeth M. Murphy,**  
*Secretary.*

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**BILLING CODE 8011-01-P**

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-69938; File No. SR-CBOE-2013-069]

### Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to Extending FLEX AIM Pilot Program Until July 18, 2014

July 5, 2013.

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 July 2, 2013, 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 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") for Flexible Exchange Options ("FLEX Options"). The text of the proposed rule change is provided below.

(additions are italicized; deletions are [bracketed])

\* \* \* \* \*

#### Chicago Board Options Exchange, Incorporated Rules

\* \* \* \* \*

Rule 24B.5A. FLEX Automated Improvement Mechanism

Notwithstanding the provisions of Rule 24B.5, a FLEX Trader that

<sup>9</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.

represents agency orders may electronically execute an order it represents as agent ("Agency Order") against principal interest and/or against solicited orders provided it submits the Agency Order for execution into the automated improvement mechanism auction ("AIM Action") pursuant to this Rule.

(a)-(b) No change.

This rule supersedes Exchange Rule 6.74A.

. . . Interpretations and Policies:

.01-.02 No change.

.03 Initially, and for at least a Pilot Period expiring on July 18, 2013<sup>4</sup>, there will be no minimum size requirement for orders to be eligible for the AIM Auction. During this Pilot Period, the Exchange will submit certain data, periodically as required by the Commission, to provide supporting evidence that, among other things, there is meaningful competition for all size orders and that there is an active and liquid market functioning on the Exchange outside of the AIM Auction. Any data which is submitted to the Commission will be provided on a confidential basis.

.04-.07 No change.

\* \* \* \* \*

The text of the proposed rule change is also 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 Statutory Basis for, the Proposed Rule Change

###### 1. Purpose

In March 2012, CBOE obtained approval from the Commission to adopt the AIM auction process for FLEX

Options.<sup>3</sup> AIM for FLEX Options exposes certain FLEX Options orders electronically to an auction process to provide these orders with the opportunity to receive an execution at an improved price. The FLEX AIM auction is available only for orders that a 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).

The Commission approved on a pilot basis the component of AIM for FLEX Options that there is no minimum size requirement for orders to be eligible for the auction.<sup>4</sup> In connection with the pilot program, the Exchange has submitted to the Commission reports providing detailed FLEX AIM auction and order execution data, and the Exchange will continue to submit to the Commission these reports. One one-year extension to the pilot program has previously become effective.<sup>5</sup> The proposed rule change merely extends the duration of the pilot program until July 18, 2014. Extending the pilot for an additional year will allow the Commission more time to consider the impact of the pilot program on AIM order executions for FLEX Options.

## 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>6</sup> Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)<sup>7</sup> requirements that the rules of an exchange be 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 regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect

investors and the public interest. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)<sup>8</sup> requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

In particular, the proposed rule change protects investors and the public interest by allowing for an extension of the AIM pilot program for FLEX Options, and thus allowing additional time for the Commission to evaluate the pilot program. The FLEX AIM pilot program will continue to allow smaller FLEX Options orders to receive the opportunity for price improvement pursuant to the AIM auction.

### *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. The Exchange does not believe the proposed rule change imposes any burden on intramarket competition because it applies to all Trading Permit Holders. All Trading Permit Holders that submit FLEX Options orders into an AIM auction are still subject to the same requirements. In addition, the Exchange does not believe the proposed rule change will impose any burden on intermarket competition, as it merely extends the duration of an existing pilot program, which is available to all market participants through Trading Permit Holders. AIM for FLEX Options will continue to function in the same manner as it currently functions for an extended period of time.

### *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>9</sup> and Rule 19b-4(f)(6)<sup>10</sup> thereunder because the proposal 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 for 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.<sup>11</sup>

A proposed rule change filed under Rule 19b-4(f)(6) normally may not become operative prior to 30 days after the date of filing. However, Rule 19b-4(f)(6)(iii)<sup>12</sup> 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 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. Specifically, the Commission believes that the proposal would allow the pilot program to continue uninterrupted and would avoid potential investor confusion that may result from the interruption of the pilot program. Moreover, the Commission notes that the Exchange submitted the proposal prior to the expiration of the pilot program, which would afford interested parties to comment on the proposal. For these reasons, the Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest, and designates the proposed rule change to be operative on July 18, 2013.<sup>13</sup>

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.<sup>14</sup>

## 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:

<sup>11</sup> 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 satisfied this requirement.

<sup>12</sup> 17 CFR 240.19b-4(f)(6)(iii).

<sup>13</sup> 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).

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

<sup>3</sup> See Securities Exchange Release No. 66702 (March 30, 2012), 77 FR 20675 (April 5, 2012) (SR-CBOE-2011-123).

<sup>4</sup> The pilot for the FLEX AIM auction process was modeled after a similar existing pilot for non-FLEX Options, and included an initial expiration date of July 18, 2012 so that the FLEX pilot would coincide with the existing non-FLEX pilot.

<sup>5</sup> See Securities Exchange Act Release No. 67302 (June 28, 2012), 77 FR 39779 (July 5, 2012) (SR-CBOE-2012-061).

<sup>6</sup> 15 U.S.C. 78f(b).

<sup>7</sup> 15 U.S.C. 78f(b)(5).

<sup>8</sup> *Id.*

<sup>9</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>10</sup> 17 CFR 240.19b-4(f)(6).

*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-CBOE-2013-069 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-2013-069. 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 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-2013-069 and should be submitted on or before July 31, 2013.

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

**Elizabeth M. Murphy,**  
Secretary.

[FR Doc. 2013-16589 Filed 7-9-13; 8:45 am]

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**SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-69936; File No. SR-BATS-2013-39]

**Self-Regulatory Organizations; BATS Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Impose Fees for Market Data**

July 3, 2013.

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 June 26, 2013, BATS Exchange, Inc. ("BATS" or the "Exchange") 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 filed with the Commission a proposed rule change to amend its fee schedule applicable to Exchange Members and other market data recipients to (i) assess market data fees for internal and external distribution of the BATS PITCH (including both TCP PITCH and Multicast PITCH) and BATS TOP data feed products, and (ii) amend the market data fee for internal and external distribution of the BATS Last Sale Feed (PITCH, TOP and Last Sale Feed collectively referred to in this proposal as the "Data Feeds"). Although changes to the fee schedule pursuant to this proposal are effective upon filing, the Exchange will implement the proposed revised fees on July 1, 2013.

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 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 the proposed rule change is to amend the "Equities Pricing" section of the BATS fee schedule which relates to fees for the BATS PITCH (including both TCP PITCH and Multicast PITCH), BATS TOP and BATS Last Sale Feed data products. For BATS PITCH, data recipients would pay a single fee, regardless if the data recipient receives BATS TCP PITCH, BATS Multicast PITCH, or both. The Exchange's other data products, other than BATS Historical Data,<sup>3</sup> will continue to be offered free of charge. Below is a description of each of the Data Feeds, as well as a brief description of the other data products offered by the Exchange that are impacted by this proposal. As specified in the descriptions below, the Data Feeds are applicable to the Exchange's equity securities platform ("BATS Equities"), its equity options platform ("BATS Options"), or both; however, the proposed fees would only be applicable to BATS Equities Data Feeds.

**(i) TCP PITCH**

The BATS TCP PITCH data feed is available for BATS Equities only, and provides Exchange data recipients with depth of book quotations, execution information, and auction update information during auctions for BATS listed securities. The PITCH feeds offered by BATS (including Multicast PITCH) are the data feeds through which Exchange data recipients can receive full, real-time quotation and execution information. Each PITCH message reflects the addition, deletion or execution of an order in the System.<sup>4</sup>

<sup>3</sup> The cost of user-accessible BATS Historical TOP Data, BATS Historical PITCH Data or BATS Historical Last Sale Data is \$500 per month of data accessed by any individual user. For data that the Exchange provides on an external hard drive to a market participant, the cost is \$2,500 per 1 terabyte (TB) drive generated by the Exchange. Securities Exchange Act Release No. 34-61885 (April 9, 2010), 75 FR 20018 (April 16, 2010) (SR-BATS-2010-002).

<sup>4</sup> As defined in BATS Rule 1.5(aa), the term "System" means "the electronic communications and trading facility designated by the Board through which securities orders of Users are consolidated

Continued

<sup>15</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.