



8011-01
SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-79267; File No. SR-C2-2016-022)

November 8, 2016

Self-Regulatory Organizations; C2 Options Exchange, Incorporated; Notice of Filing of a Proposed Rule Change in Connection with a Proposed Corporate Transaction Involving CBOE Holdings, Inc. and Bats Global Markets, Inc.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)¹, and Rule 19b-4 thereunder,² notice is hereby given that on November 4, 2016, C2 Options Exchange, Incorporated (the “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

The Exchange submits this rule filing in connection with a proposed corporate transaction (the “Transaction”) involving its ultimate parent company, CBOE Holdings, Inc. (“CBOE Holdings”), two wholly owned subsidiaries of CBOE Holdings, CBOE Corporation and CBOE V, LLC (“CBOE V”), and Bats Global Markets, Inc. (“BGM”). BGM is the ultimate parent company of Bats BZX Exchange, Inc. (“Bats BZX”), Bats BYX Exchange, Inc. (“Bats BYX”), Bats EDGX Exchange, Inc. (“Bats EDGX”), and Bats EDGA Exchange, Inc. (“Bats EDGA” and, together with Bats BZX, Bats BYX, and Bats EDGX, the “Bats Exchanges”). Upon completion of the Transaction (the “Closing”), CBOE Holdings will become the ultimate parent of the Bats Exchanges.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

On September 25, 2016, CBOE Holdings, CBOE Corporation, CBOE V, and BGM entered into an Agreement and Plan of Merger, as it may be amended from time to time (the “Merger Agreement”). In connection with the Transaction, the Exchange seeks the Commission’s approval of a provision in the Merger Agreement regarding the composition of the CBOE Holdings Board of Directors (“CBOE Holdings Board”) upon the Closing. There are no proposed changes to Exchange rules or governing documents of CBOE Holdings or the Exchange.

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 submits this filing for Commission approval of a provision in the Merger Agreement regarding the composition of the CBOE Holdings Board upon Closing. Other than as described herein, the Exchange will continue to conduct its regulated activities (including operating and regulating its market and Trading Permit Holders) in essentially the same manner it conducts them today, and will not make any changes to its regulated activities in connection with the Transaction. The Exchange is not proposing any amendments to its trading and regulatory rules or organizational and governance documents at this time. If the Exchange

determines to make any such changes, it will submit rule filings to the Commission proposing such changes to the extent required by the Act and the rules and regulations thereunder.

Current Corporate Structures

Each of C2 and Chicago Board Options Exchange, Incorporated (“CBOE” and, together with the Exchange, the “CBOE Exchanges”) is a Delaware corporation that is a national securities exchange registered with the Commission pursuant to Section 6(a) of the Act.³ Each CBOE Exchange is a direct, wholly owned subsidiary of CBOE Holdings, a publicly traded Delaware corporation. CBOE V is a Delaware limited liability company and direct, wholly owned subsidiary of CBOE Holdings, which currently has no material assets and conducts no operations.

Each Bats Exchange is a Delaware corporation that is a national securities exchange registered with the Commission pursuant to Section 6(a) of the Act.⁴ BGM is a publicly traded Delaware corporation and the ultimate parent of the Bats Exchanges.

The Transaction

Pursuant to and subject to the terms of the Merger Agreement, at the Closing, among other things, each share of BGM common stock (whether voting or non-voting) issued and outstanding (other than shares owned by CBOE Holdings, BGM or any of their respective subsidiaries, and certain shares held by BGM stockholders that are entitled to and properly demand appraisal rights) will be converted into the right to receive a particular number of shares of CBOE Holdings common stock, an amount of cash, or a combination of both, at the election of the holder of such share of BGM common stock. BGM will ultimately merge with and into

³ 15 U.S.C. 78f(a).

⁴ 15 U.S.C. 78f(a).

CBOE Holdings' wholly owned subsidiary CBOE V, at which time the separate existence of BGM will cease and CBOE V will be the surviving company.

Post-Closing Corporate Structure

As a result of the Transaction, CBOE Holdings will be the ultimate parent of the Bats Exchanges, each of which will continue to operate separately. CBOE Holdings will continue to be a publicly owned company and the ultimate parent of the CBOE Exchanges, each of which will continue to operate separately.

Post-Closing CBOE Holdings Board

In connection with the Transaction, CBOE Holdings agreed in the Merger Agreement to take all requisite actions so, as of the Closing, the CBOE Holdings Board will include three individuals designated by BGM who (1) are serving as BGM directors immediately prior to the Closing and (2) comply with the policies (including clarifications of the policies provided to BGM) of the Nominating and Governance Committee of the CBOE Holdings Board as in effect on the date of the Merger Agreement and previously provided to BGM (each of whom will be appointed to the CBOE Holdings Board as of the Closing). The CBOE Holdings Board currently consists of 14 directors.⁵ The Exchange expects three current CBOE Holdings directors to resign effective prior to the Closing and the remaining CBOE Holdings directors to fill the vacancies created by those resignations with the three BGM directors designated by BGM.⁶

⁵ Pursuant to the Second Amended and Restated Certificate of Incorporation of CBOE Holdings ("CBOE Holdings Certificate") and the Third Amended and Restated Bylaws of CBOE Holdings ("CBOE Holdings Bylaws"), the CBOE Holdings Board will consist of no less than 11 and no more than 23 directors, the exact number to be fixed by the CBOE Holdings Board from time to time pursuant to resolution adopted by the Board. See CBOE Holdings Certificate Article Seventh (b) and CBOE Holdings Bylaws Section 3.2.

⁶ See Sections 3.4 and 3.5 of the CBOE Holdings Bylaws.

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.⁷ Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)⁸ 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)⁹ requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The proposed rule change is consistent with CBOE Holdings' organizational and governing documents previously filed with the Commission.¹⁰ The Exchange will continue to have the authority and ability to effectively fulfill its self-regulatory duties pursuant to the Act and the rules promulgated thereunder. CBOE Holdings' governing documents will not change at the Closing and, therefore, will continue to include various provisions intended to protect and

⁷ 15 U.S.C. 78f(b).

⁸ 15 U.S.C. 78f(b)(5).

⁹ Id.

¹⁰ See, e.g., Securities Exchange Act Release Nos. 34-76282 (October 27, 2015), 80 FR 67464 (November 2, 2015) (SR-CBOE-2015-092); and 34-76281 (October 27, 2015), 80 FR 67461 (November 2, 2015) (SR-C2-2015-022) (notices of filing and immediate effectiveness of recent proposed rule changes to amend the CBOE Holdings Certificate and Bylaws); see also supra notes 5 and 6.

maintain the integrity of the self-regulatory functions of the Exchange. Additionally, the Commission will continue to have regulatory authority over the Exchange, as is currently the case, as well as jurisdiction over CBOE Holdings with respect to activities related to the Exchange.¹¹

The Exchange is proposing no changes to its existing operational and trading structure in connection with the Transaction. Upon Closing, the Exchange will operate in essentially the same manner as it operates today. Therefore, the Exchange believes it will continue to satisfy the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.

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

The Exchange does not believe the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change relates to the corporate governance of CBOE Holdings – specifically a change in composition of the CBOE Holdings Board in connection with a corporate transaction – and not the operations of the Exchange. This is not a competitive filing and, therefore, imposes no burden on competition.

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

Within 45 days of the date of publication of this notice in the Federal Register or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period

¹¹ See, e.g., CBOE Holdings Certificate Article Fourteenth.

to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission will:

- A. by order approve or disapprove such proposed rule change, or
- B. institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments:

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-C2-2016-022 on the subject line.

Paper Comments:

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-1090.

All submissions should refer to File Number SR-C2-2016-022. This file number should be included on the subject line if e-mail 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 website (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those

that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street, NE, Washington, 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-C2-2016-022, and should be submitted on or before [insert date 21 days from publication in the Federal Register].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹²

Brent J. Fields
Secretary

¹² 17 CFR 200.30-3(a)(12).

