

will act in accordance with the Commission's interpretation of the requirements of Section 16(a) of the 1940 Act with respect to periodic elections of directors (or trustees) and with whatever rules the Commission may promulgate with respect thereto.

13. Each Participant shall at least annually submit to the Board of an Insurance Investment Company such reports, materials or data as the Board may reasonably request so that it may fully carry out the obligations imposed upon it by the conditions contained in this Application. Such reports, materials and data shall be submitted more frequently, if deemed appropriate, by the Board. The obligations of the Participants to provide these reports, materials and data to the Board of the Insurance Investment Company when it so reasonably requests, shall be a contractual obligation of the Participants under their agreements governing participation in each Insurance Investment Company.

14. Each Insurance Investment Company will not accept a purchase order from a Qualified Plan if such purchase would make the Qualified Plan an owner of 10% or more of the assets of the Insurance Investment Company unless the trustee for such Plan executes a participation agreement with such Insurance Investment Company which includes the conditions set forth herein to the extent applicable. A trustee for a Qualified Plan will execute an application containing an acknowledgment of this condition at the time of such Plan's initial purchase of the shares of any Insurance Investment Company or Insurance Fund.

Conclusion: Applicants submit that, for the reasons summarized above, the requested exemptions from Sections 9(a), 13(a), 15(a), and 15(b) of the 1940 Act and Rules 6e-2(b)(15) and 6e-3(T)(b)(15) thereunder, in accordance with the standards of Section 6(c) of the 1940 Act, are in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the 1940 Act.

For the Commission, by the Division of Investment Management, under delegated authority.

Florence E. Harmon,

Acting Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-59068; File No. SR-CBOE-2008-120]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Non-Member Market-Maker Transaction Fees

December 8, 2008.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on November 26, 2008, the Chicago Board Options Exchange, Incorporated ("CBOE" or "Exchange") 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 CBOE. 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

Chicago Board Options Exchange, Incorporated ("CBOE" or "Exchange") proposes to amend its Fees Schedule regarding non-member market-maker transaction fees. 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.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, CBOE 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. CBOE 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 lower the Exchange's non-member market-maker transaction fee for certain orders. The Exchange currently charges non-member market-

makers \$.45 per contract for electronically executed orders and \$.25 per contract for manually executed orders.¹ In order to encourage non-member market-makers to provide liquidity in the Exchange's Automated Improvement Mechanism ("AIM"), the Exchange proposes to charge a discounted transaction fee of \$.20 per contract for non-member market-maker orders executed on AIM.² The Exchange proposes to make this fee change effective December 1, 2008.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with Section 6(b) of the Securities Exchange Act of 1934 ("Act"),³ in general, and furthers the objectives of Section 6(b)(4)⁴ of the Act in particular, in that it is designed to provide for the equitable allocation of reasonable dues, fees, and other charges among CBOE members and other persons using its facilities. The Exchange believes the proposed rule change should enhance liquidity on AIM by reducing fees for non-member market-makers trading on AIM.

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 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 foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act⁵ and subparagraph (f)(2) of Rule 19b-4⁶ thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or

¹ These fees are reflected as "broker-dealer" transaction fees on the CBOE Fees Schedule. All transaction fees are assessed to CBOE members.

² AIM is an electronic auction system that exposes certain orders electronically in an auction to provide such orders with the opportunity to receive an execution at an improved price. AIM is governed by CBOE Rule 6.74A.

³ 15 U.S.C. 78f(b).

⁴ 15 U.S.C. 78f(b)(4).

⁵ 15 U.S.C. 78s(b)(3)(A).

⁶ 17 CFR 240.19b-4(f)(2).

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 e-mail to rule-comments@sec.gov. Please include File Number SR-CBOE-2008-120 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-CBOE-2008-120. 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 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 inspection and copying 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 CBOE. 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-2008-120 and should be submitted on or before January 6, 2009.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.⁷

Florence E. Harmon,

Acting Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-59075; File No. SR-FINRA-2008-055]

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Proposed Rule Change To Adopt FINRA Rule 2114 (Recommendations to Customers in OTC Equity Securities) in the Consolidated FINRA Rulebook

December 10, 2008.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")¹ and Rule 19b-5 thereunder,² notice is hereby given that on November 4, 2008, Financial Industry Regulatory Authority, Inc. ("FINRA") (f/k/a National Association of Securities Dealers, Inc. ("NASD")) filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been substantially prepared by FINRA. 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

FINRA is proposing to adopt NASD Rule 2315 (Recommendations to Customers in OTC Equity Securities) as FINRA Rule 2114 in the Consolidated FINRA Rulebook, subject to certain amendments.

The text of the proposed rule change is available at FINRA, on its Web site (<http://www.finra.org>), 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, FINRA 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. FINRA 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

As part of the process of developing the new consolidated rulebook ("Consolidated FINRA Rulebook"),³ FINRA is proposing to adopt in the Consolidated FINRA Rulebook NASD Rule 2315 (Recommendations to Customers in OTC Equity Securities) with certain modifications.

a. The Current Rule

NASD Rule 2315 is intended to address potential fraud and abuse in transactions involving securities not listed on an exchange and certain other higher risk securities. The rule mandates that a member conduct a due diligence review of an issuer's current financial and business information before recommending a covered security. The rule supplements existing FINRA rules and the federal securities law, including suitability obligations and the requirement that any recommendation to a customer have a reasonable basis. The rule requirements go beyond the basic suitability obligations to ensure that a registered representative has, at a minimum, confirmed the existence of and reviewed essential information that reveals the financial condition and business prospects of these riskier issuers.

Specifically, the rule requires a member to review "current financial statements" and "current material business information" before it recommends the purchase or short sale of those securities that are published or quoted in a "quotation medium" and are either (1) not listed on Nasdaq or a national securities exchange or (2) are listed on a regional securities exchange and do not qualify for dissemination of transaction reports via the Consolidated Tape. Such securities may be more susceptible to fraud and abuse because they often are thinly capitalized or lack the profitability, liquidity or available

³ The current FINRA rulebook includes, in addition to FINRA Rules, (1) NASD Rules and (2) rules incorporated from NYSE ("Incorporated NYSE Rules") (together, the NASD Rules and Incorporated NYSE Rules are referred to as the "Transitional Rulebook"). While the NASD Rules generally apply to all FINRA members, the Incorporated NYSE Rules apply only to those members of FINRA that are also members of the NYSE ("Dual Members"). For more information about the rulebook consolidation process, see *FINRA Information Notice*, March 12, 2008 (Rulebook Consolidation Process).

⁷ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.