

authority to act for the requester/petitioner.

In accordance with 10 CFR 2.309(g), a request for hearing and/or petition for leave to intervene may also address the selection of the hearing procedures, taking into account the provisions of 10 CFR 2.310.

### III. Further Information

Documents related to this action, including the application for amendment and supporting documentation, are available electronically at the NRC's Electronic Reading Room at <http://www.nrc.gov/reading-rm/adams.html>. From this site, you can access the NRC's Agencywide Document Access and Management System (ADAMS), which provides text and image files of NRC's public documents. The ADAMS accession numbers for the documents related to this notice are:

Submittal Letter dated October 22, 2008: ML083010187.

Sigma-Aldrich Fort Mims Facility Decontamination and Decommissioning Plan: ML083010187.

Sigma-Aldrich Fort Mims Facility Soil Sampling and Analysis Plan: ML083010187.

If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC Public Document Room (PDR) Reference staff at 1-800-397-4209, 301-415-4737, or by e-mail to [pdr.resource@nrc.gov](mailto:pdr.resource@nrc.gov). These documents may also be viewed electronically on the public computers located at the NRC's PDR, O 1 F21, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852. The PDR reproduction contractor will copy documents for a fee.

Dated at Lisle, Illinois, this 8th day of December 2008.

For the Nuclear Regulatory Commission.

**Christine A. Lipa,**

*Chief, Materials Control, ISFSI and Decommissioning Branch, Division of Nuclear Materials Safety, Region III.*

[FR Doc. E8-30775 Filed 12-24-08; 8:45 am]

**BILLING CODE 7590-01-P**

## SECURITIES AND EXCHANGE COMMISSION

### Proposed Collection; Comment Request

*Upon Written Request, Copies Available*

From: Securities and Exchange Commission, Office of Investor Education and Advocacy, Washington, DC 20549-0213.

*Extension:*

Rule 22c-2, SEC File No. 270-541, OMB Control No. 3235-0620.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) the Securities and Exchange Commission (the "Commission") is soliciting comments on the collection of information summarized below. The Commission plans to submit this existing collection of information to the Office of Management and Budget for extension and approval.

Rule 22c-2 (17 CFR 270.22c-2 "Mutual Fund Redemption Fees") under the Investment Company Act of 1940 (15 U.S.C. 80a) (the "Investment Company Act" or "Act") requires the board of directors (including a majority of independent directors) of most registered investment companies ("funds") to either approve a redemption fee of up to two percent or determine that imposition of a redemption fee is not necessary or appropriate for the fund. Rule 22c-2 also requires a fund to enter into written agreements with their financial intermediaries (such as broker-dealers and retirement plan administrators) under which the fund, upon request, can obtain certain shareholder identity and trading information from the intermediaries. The written agreement must also allow the fund to direct the intermediary to prohibit further purchases or exchanges by specific shareholders that the fund has identified as being engaged in transactions that violate the fund's market timing policies. These requirements enable funds to obtain the information that they need to monitor the frequency of short-term trading in omnibus accounts and enforce their market timing policies.

The rule includes three "collections of information" within the meaning of the Paperwork Reduction Act of 1995 ("PRA").<sup>1</sup> First, the rule requires boards to either approve a redemption fee of up to two percent or determine that imposition of a redemption fee is not necessary or appropriate for the fund. Second, funds must enter into information sharing agreements with all of their "financial intermediaries"<sup>2</sup> and

<sup>1</sup> 44 U.S.C. 3501-3520.

<sup>2</sup> The rule defines a Financial Intermediary as: (i) Any broker, dealer, bank, or other person that holds securities issued by the fund in nominee name; (ii) a unit investment trust or fund that invests in the fund in reliance on section 12(d)(1)(E) of the Act; and (iii) in the case of a participant directed employee benefit plan that owns the securities issued by the fund, a retirement plan's administrator under section 316(A) of the Employee Retirement Security Act of 1974 (29 U.S.C. 1002(16)(A)) or any person that maintains the plans' participant records. Financial Intermediary does not

maintain a copy of the written information sharing agreement with each intermediary in an easily accessible place for six years. Third, pursuant to the information sharing agreements, funds must have systems that enable them to request frequent trading information upon demand from their intermediaries, and to enforce any restrictions on trading required by funds under the rule.

The collections of information created by Rule 22c-2 are necessary for funds to effectively assess redemption fees, enforce their policies in frequent trading, and monitor short-term trading, including market timing, in omnibus accounts. These collections of information are mandatory for funds that redeem shares within seven days of purchase. The collections of information also are necessary to allow Commission staff to fulfill its examination and oversight responsibilities.

Rule 22c-2(a)(1) requires the board of directors of all registered investment companies and series thereof (except for money market funds, ETFs, or funds that affirmatively permit short-term trading of its securities) to approve a redemption fee for the fund, or instead make a determination that a redemption fee is either not necessary or appropriate for the fund. Commission staff understands that the boards of all funds currently in operation have undertaken this process for the funds they currently oversee, and the rule does not require boards to review this determination periodically once it has been made. Accordingly, we expect that only boards of newly registered funds or newly created series thereof would undertake this determination. Commission staff estimates that approximately 300 funds or series thereof (excluding money market funds and ETFs) are newly formed each year and would need to make this determination.

Commission staff estimates that it takes approximately 2 hours of the boards' time, as a whole, to approve a redemption fee or make the required determination. In addition, Commission staff estimates that it takes compliance personnel of the fund approximately 8 hours to prepare trading, compliance, and other information regarding the fund's operations to enable the board to make its determination, and takes internal counsel of the fund approximately 3 hours to review this information and present its

include any person that the fund treats as an individual investor with respect to the fund's policies established for the purpose of eliminating or reducing any dilution of the value of the outstanding securities issued by the fund. Rule 22c-2(c)(1).

recommendations to the board. Therefore, for each fund board that undertakes this determination process, Commission staff estimates it expends approximately 13 hours.<sup>3</sup> As a result, Commission staff estimates that the total time spent for all funds on this process is 3900 hours.<sup>4</sup>

Rule 22c-2(a)(2) requires a fund to enter into information sharing agreements with each of its financial intermediaries. Commission staff understands that all currently registered funds have already entered into such agreements with their intermediaries. Funds enter into new relationships with intermediaries from time to time, however, which requires them to enter into new information sharing agreements. Commission staff understands that, in general, funds enter into information-sharing agreement when they initially establish a relationship with an intermediary, which is typically executed as an addendum to the distribution agreement. Commission staff estimates that there are approximately 7254 open-end fund series currently in operation (excluding money market funds and ETFs). However, the Commission staff understands that most shareholder information agreements are entered into by the fund group (a group of funds with a common investment adviser), and estimates that there are currently 680 currently active fund groups.<sup>5</sup> Commission staff estimates that, on average, each active fund group enters into relationships with approximately 5 new intermediaries each year. Commission staff understands that funds generally use a standard information sharing agreement, drafted by the fund or an outside entity, and modifies that agreement according to the requirements of each intermediary. Commission staff estimates that negotiating the terms and entering into an information sharing agreement takes a total of approximately 4 hours of attorney time per intermediary (representing 2.5 hours of fund attorney time and 1.5 hours of intermediary attorney time). Accordingly, Commission staff estimates that each existing fund group expends 20 hours each year<sup>6</sup> to enter into new

information sharing agreements, and all existing fund groups incur a total of 13,600 hours.

In addition, newly created funds advised by new entrants (effectively new fund groups) must enter into information sharing agreements with all of their financial intermediaries. Commission staff estimates that there are approximately 22 new funds or fund groups that form each year that will have to enter into information sharing agreements with each of their intermediaries.<sup>7</sup> Commission staff estimates that funds and fund groups formed by new advisers typically have relationships with significantly fewer intermediaries than existing fund groups, and estimates that new fund groups will typically enter into approximately 100 information sharing agreements with their intermediaries when they begin operations.<sup>8</sup> As discussed previously, Commission staff estimates that it takes approximately 4 hours of attorney time per intermediary to enter into information sharing agreements. Therefore, Commission staff estimates that each newly formed fund group will incur 400 hours of attorney time,<sup>9</sup> and all newly formed fund groups will incur a total of 8800 hours to enter into information sharing agreements with their intermediaries.<sup>10</sup>

Rule 22c-2(a)(3) requires funds to maintain records of all information sharing agreements for 6 years in an easily accessible place. Commission staff estimates that there are approximately 7254 open-end fund series currently in operation (excluding money market funds and ETFs). However, the Commission staff anticipates that most shareholder information agreements will be stored at the fund group level and estimates that there are currently approximately 680 fund groups. Commission staff estimates that maintaining records of information sharing agreements requires approximately 10 minutes of time spent by a general clerk per fund, each year. Accordingly, Commission staff estimates that all funds will incur

approximately 113 hours<sup>11</sup> in complying with the recordkeeping requirement of rule 22c-2(a)(3).

Therefore, Commission staff estimates that to comply with the information sharing agreement requirements of rule 22c-2(a)(1) and (3) requires a total of 22,513 hours.<sup>12</sup>

The Commission staff estimates that on average, each fund group requests shareholder information once a week, and gives instructions regarding the restriction of shareholder trades every day, for a total of 417 responses related to information sharing systems per fund group each year, and a total 283,560 responses for all fund groups annually. In addition, the staff estimates that funds make 300 responses related to board determinations, 3400 responses related to new intermediaries of existing fund groups, 2200 responses related to new fund group information sharing agreements, and 680 responses related to recordkeeping, for a total of 6580 responses related to the other requirements of rule 22c-2. Therefore, the Commission staff estimates that the total number of responses is 290,140 (283,560 + 6580 = 290,140). Commission staff also estimates that there are 7254 potential respondents making 290,140 responses each year. The Commission staff estimates that the total hour burden for rule 22c-2 is 26,413 hours.<sup>13</sup>

Rule 22c-2 requires funds to enter into information sharing agreements with their intermediaries that enable funds to, upon request (i) be provided certain information regarding shareholders and their trades that are held through a financial intermediary or an indirect intermediary, and (ii) require the intermediary to execute instructions from the fund restricting or prohibiting further purchases or exchanges by shareholders that violate the fund's frequent trading policies. As a result of this requirement, some funds and intermediaries have had to develop and maintain information sharing, monitoring, and order execution systems (collectively "information sharing systems").

In general, the staff estimates that the typical charges involved in operating and maintaining information sharing systems average 25 cents for every 100

<sup>7</sup> ICI, 2008 Investment Company Fact Book at Fig 1.7 (2008) ([http://www.ici.org/stats/latest/2008\\_factbook.pdf](http://www.ici.org/stats/latest/2008_factbook.pdf)).

<sup>8</sup> Commission staff understands that funds generally use a standard information sharing agreement, drafted by the fund or an outside entity, and then modifies that agreement to according the requirements of each intermediary.

<sup>9</sup> This estimate is based on the following calculations: (4 hours × 100 intermediaries = 400 hours).

<sup>10</sup> This estimate is based on the following calculations: (22 fund groups × 400 hours + 8800 hours).

<sup>3</sup> This calculation is based on the following estimates: (2 hours of board time + 3 hours of internal counsel time + 8 hours of compliance time = 13 hours).

<sup>4</sup> This calculation is based on the following estimates: (13 hours × 300 funds = 3900 hours).

<sup>5</sup> ICI, 2008 Investment Company Fact Book at Fig 1.7 (2008) ([http://www.ici.org/stats/latest/2008\\_factbook.pdf](http://www.ici.org/stats/latest/2008_factbook.pdf)).

<sup>6</sup> This estimate is based on the following calculations: (4 hours × 5 new intermediaries = 20 hours).

<sup>11</sup> This estimate is based on the following calculations: (10 minutes × 680 fund groups = 6800 minutes); (6800 minutes/ 60 = 113 hours).

<sup>12</sup> This estimate is based on the following calculations: (13,600 hours + 8800 hours + 113 hours = 22,513 hours).

<sup>13</sup> This estimate is based on the following calculations: (3900 hours (board determination) + 22,513 hours (information sharing agreements) = 26,413 total hours).

account transactions requested. The Commission staff estimates that, on average, each fund group requests information for 100,000 transactions each week, incurring costs of \$250 weekly, or \$13,000 a year.<sup>14</sup> In addition, the Commission staff estimates that funds pay access fees to use these information sharing systems (or comparable internal costs) of approximately \$30,000 each year. The Commission staff therefore estimates that a fund group would typically incur approximately \$43,000 in costs each year related to the operation and maintenance of information sharing systems required by rule 22c-2. The Commission staff has previously estimated that there are approximately 680 fund groups currently active, and therefore estimates that all fund groups incur a total of \$29,240,000 in ongoing costs each year related to maintaining and operating information sharing systems.<sup>15</sup>

Commission staff estimates that it requires approximately \$100,000 to purchase or develop and implement such an information sharing system for the first time. Commission staff has previously estimated that approximately 22 funds or fund groups are formed each year managed by new advisers, and therefore estimates that all these funds would incur total costs of approximately \$2,200,000.<sup>16</sup>

Responses provided to the Commission will be accorded the same level of confidentiality accorded to other responses provided to the Commission in the context of its examination and oversight program. Responses provided in the context of the Commission's examination and oversight program are generally kept confidential. Complying with the information collections of rule 22c-2 is mandatory for funds that redeem their shares within 7 days of purchase. An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid control number.

Written comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

<sup>14</sup> This estimate is based on the following calculations: (100,000 transaction requests × 0.0025¢ = \$250); (\$250 × 52 weeks = \$13,000).

<sup>15</sup> This estimate is based on the following calculation: (680 fund groups × \$43,000 = \$29,240,000).

<sup>16</sup> This estimate is based on the following estimate: (\$100,000 × 22 new fund groups = \$2,200,000).

(b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

Please direct your written comments to Lewis W. Walker, Acting Director/ CIO, Securities and Exchange Commission, C/O Shirley Martinson, 6432 General Green Way, Alexandria, VA 22312; or send an e-mail to: [PRA\\_Mailbox@sec.gov](mailto:PRA_Mailbox@sec.gov).

Dated: December 17, 2008.

**Florence E. Harmon,**

*Acting Secretary.*

[FR Doc. E8-30782 Filed 12-24-08; 8:45 am]

**BILLING CODE 8011-01-P**

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-59114; File No. SR-BATS-2008-013]

### Self-Regulatory Organizations; BATS Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Change the Name of BATS Holdings, Inc.

December 17, 2008.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on December 11, 2008, BATS Exchange, Inc. ("BATS" or the "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 the Exchange. BATS has designated the proposed rule change as one being concerned solely with the administration of the Exchange pursuant to Section 19(b)(3)(A)(iii) of the Act<sup>3</sup> and Rule 19b-4(f)(3) thereunder,<sup>4</sup> which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

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

<sup>4</sup> 17 CFR 240.19b-4(f)(6) [sic].

### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend: (i) Its Rule 2.10, (ii) the Amended and Restated By-Laws of the Exchange, (iii) the Amended and Restated Certificate of Incorporation of BATS Holdings, Inc., (iv) the Amended and Restated Bylaws of BATS Holdings, Inc., and (v) the Investor Rights Agreement of BATS Holdings, Inc. (collectively, the "Operative Documents") to change the name of BATS Holdings, Inc. to BATS Global Markets, Inc.

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 proposes to amend the Operative Documents to change the name of BATS Holdings, Inc., and references thereto, to BATS Global Markets, Inc. In connection with the filing of the Amended and Restated Certificate of Incorporation reflecting the name change, certain additional changes have been made to comply with Delaware Corporate law. In addition, the address listed for BATS Global Markets, Inc. in the Investor Rights Agreement has been updated to reflect a new location.

The name change from BATS Holdings, Inc. to BATS Global Markets, Inc. is a non-substantive change. No changes to the ownership or structure of the Exchange or BATS Holdings, Inc. have taken place.

##### 2. Statutory Basis

The Exchange believes the proposal is consistent with the requirements of the