

**Information Collection Request (ICR)**

*Title:* Supplemental Information on Accident and Insurance.

*Form(s) submitted:* SI-1c, SI-5, ID-3s-1, ID-3U, ID-30k, ID-30k-1, ID-3s.

*OMB Control Number:* 3220-0036.

*Expiration date of current OMB clearance:* 1/31/2009.

*Type of request:* Revision of a currently approved collection.

*Affected Public:* Individuals or Households, Business or other for-profit.

*Estimated annual number of respondents:* 10,000.

*Total annual responses:* 28,500.

*Total annual reporting hours:* 1,693.

*Abstract:* The Railroad

Unemployment Insurance Act provides for the recovery of sickness benefits paid if an employee receives a settlement for the same injury for which benefits were paid. The collection obtains information about the person or company responsible for such payments that is needed to determine the amount of the RRB's entitlement.

*Changes Proposed:* The RRB proposes minor non-burden impacting changes to Forms SI-1c, ID-3s, ID-3s-1 and ID-3U. No other changes are proposed.

*Additional Information or Comments:* Copies of the form and supporting documents can be obtained from Charles Mierzwa, the agency clearance officer at (312-751-3363) or [Charles.Mierzwa@rrb.gov](mailto:Charles.Mierzwa@rrb.gov).

Comments regarding the information collection should be addressed to Ronald J. Hodapp, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois 60611-2092 or [Ronald.Hodapp@rrb.gov](mailto:Ronald.Hodapp@rrb.gov) and to the OMB Desk Officer for the RRB, at the Office of Management and Budget, Room 10230, New Executive Office Building, Washington, DC 20503.

**Charles Mierzwa,**

*Clearance Officer.*

[FR Doc. E9-1649 Filed 1-26-09; 8:45 am]

**BILLING CODE 7905-01-P**

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**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: Form SE, OMB Control No. 3235-0327, SEC File No. 270-289.

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 ("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.

Form SE (17 CFR 239.64) is used by registrants to file paper copies of exhibits that would be difficult or impossible to submit electronically. The information contained in Form SE is used by the Commission to identify paper copies of exhibits. Form SE is filed by individuals, companies or other for-profit organizations that are required to file electronically. Approximately 782 registrants file Form SE and it takes an estimated .10 hours per response for a total annual burden of 78 hours.

Written comments are invited on: (a) Whether these proposed collections of information are necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden imposed by 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 Charles Boucher, Director/CIO, C/O Shirley Martinson, 6432 General Green Way, Alexandria, Virginia 22312; or send an e-mail to:

[PRA\\_Mailbox@sec.gov](mailto:PRA_Mailbox@sec.gov).

Dated: January 14, 2009.

**Florence E. Harmon,**

*Deputy Secretary.*

[FR Doc. E9-1676 Filed 1-26-09; 8:45 am]

**BILLING CODE 8011-01-P**

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**SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-59258; File No. SR-BATS-2009-001]

**Self-Regulatory Organizations; BATS Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend BATS Rule 11.9, entitled "Orders and Modifiers"**

January 15, 2009.

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 January 12, 2009, 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 Exchange has designated this proposal as a "non-controversial" proposed rule change pursuant to Section 19(b)(3)(A) of the Act<sup>3</sup> and Rule 19b-4(f)(6)(iii) thereunder,<sup>4</sup> which renders it 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 is proposing to amend BATS Rule 11.9, entitled "Orders and Modifiers," to provide Exchange system functionality that will cancel any portion of a market order submitted to the Exchange (a "BATS market order") that would execute at a price that is more than 50 cents or 5 percent worse than the NBBO at the time the order initially reaches the Exchange (the "Initial NBBO"), whichever is greater.

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 purpose of the proposed rule change is to protect market participants

<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).

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

from executions at prices that are significantly worse than the NBBO at the time of order entry by providing Exchange system functionality that will cancel any portion of a BATS market order that would execute at a price that is 50 cents or 5 percentage points worse than the Initial NBBO, whichever is greater. Any portion of a BATS market order that would otherwise execute outside of these thresholds will be immediately cancelled back to the User.<sup>5</sup> The Exchange believes that Users who submit market orders to the Exchange generally intend to receive executions for the full size of their orders at or near the Initial NBBO and are not always aware that there may not be enough liquidity at that price to fill the entire size of their orders. The Exchange believes that the market order thresholds proposed in this rule filing will help avoid executions of BATS market orders at prices that are significantly worse than the Initial NBBO, particularly in thinly-traded securities. The following example demonstrates how the BATS market order thresholds would operate:

- A User submits a routable BATS market order<sup>6</sup> (i.e., not designated as a “BATS Only” order) to buy 1,000 shares of ABC;
- The Initial NBBO in security ABC is \$8.00 (bid) by \$8.05 (offer), 100 shares each, both published by “Market Center A”;
- The Exchange has 100 shares of liquidity at the \$8.05 offer price and also has resting orders on its book to sell 100 shares at \$8.15, 100 shares at \$8.20 and 1,000 shares at \$8.60; and
- Other than the \$8.05 offer published by Market Center A there are no offers to sell the security at or between \$8.05 and \$8.60 at other market centers.

Under the circumstances described above, with the Initial NBBO of \$8.00 (bid) by \$8.05 (offer), the BATS market order would be executed as follows:

- 100 shares executed at the \$8.05 price on the Exchange;
- 900 shares routed to Market Center A as an immediate or cancel order with a price of \$8.05;
- 100 shares executed at Market Center A (presuming this offer was still

available and there was no additional non-displayed liquidity at that price);

- 800 shares returned to the Exchange;
  - 100 shares executed at the Exchange at the \$8.15 price level;
  - 100 shares executed at the Exchange at the \$8.20 price level.
- Under this example, 400 shares of the BATS market order would be executed. The remaining 600 shares of the BATS market order would be cancelled back to the User because the liquidity on the Exchange at the \$8.60 price level exceeds the BATS market order thresholds set forth in proposed Rule 11.9(a)(2), and such order is not eligible for routing outside of such thresholds. Such BATS market order could only be executed or routed by the Exchange up to and including a price of \$8.55 (\$0.50 worse than the Initial NBBO).

For those Users who intend to trade against liquidity at multiple price points from the Initial NBBO beyond the BATS market order thresholds proposed in this rule filing, those Users can clearly and unambiguously specify that intent by submitting a marketable limit order to the Exchange. For example, using the scenario described above, if the User submitted a limit order to buy 1,000 shares of security ABC with a limit price of \$9.00, such order would be executed up to its full size, either on the Exchange (provided that the Exchange would not trade through protected quotations) or at away market centers if the order was routable.

## 2. Statutory Basis

The Exchange believes the proposal is consistent with the requirements of the Act and the rules and regulations thereunder that are applicable to a national securities exchange, and, in particular, with the requirements of Section 6(b).<sup>7</sup> In particular, for the reasons described above, the proposed change is consistent with Section 6(b)(5) of the Act,<sup>8</sup> because it would promote just and equitable principles of trade, remove impediments to, and perfect the mechanism of, a free and open market and a national market system, and, in general, protect investors and the public interest, by helping to avoid executions of market orders on the Exchange at prices that are significantly worse than the NBBO at the time an order is initially received by the Exchange. The Exchange believes that the Initial NBBO is a fair representation of then-available prices and accordingly provides for an appropriate pricing mechanism such that BATS market orders should not be

executed at a significantly worse price. Also, the Exchange believes that this proposal is consistent with existing exchange rules that allow for the breaking of trades deemed clearly erroneous by reference to objective thresholds away from the NBBO.<sup>9</sup> Accordingly, the modifications to BATS Rule 11.9 promote just and equitable principles of trade, remove impediments to, and perfect the mechanism of, a free and open market and a national market system.

### A. Self-Regulatory Organization’s Statement of Burden on Competition

The Exchange does not believe that the proposed rule change imposes any burden on competition.

### B. Self-Regulatory Organization’s Statement on Comments Regarding the Proposed Rule Changes Received From Members, Participants or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

#### i. Date of Effectiveness of the Proposed Rule Changes and Timing for Commission Action

Because the foregoing rule change does not: (1) Significantly affect the protection of investors or the public interest; (2) impose any significant burden on competition; and (3) become operative for 30 days after the date of this filing, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>10</sup> and Rule 19b-4(f)(6) thereunder.<sup>11</sup>

A proposed rule change filed under 19b-4(f)(6) normally may not become operative prior to 30 days after the date of filing.<sup>12</sup> However, Rule 19b-4(f)(6)(iii)<sup>13</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 so that the proposal may become operative upon filing. The Commission believes that waiving the 30-day operative delay is consistent with the

<sup>9</sup> See, e.g., NASDAQ Rule 11890.

<sup>10</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>11</sup> 17 CFR 240.19b-4(f)(6).

<sup>12</sup> 17 CFR 240.19b-4(f)(6)(iii). In addition, Rule 19b-4(f)(6)(iii) requires that a self-regulatory organization submit to the Commission written notice of its 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 notice requirement.

<sup>13</sup> *Id.*

<sup>5</sup> As defined in Exchange Rule 1.5(bb).

<sup>6</sup> If the order is not routable then it would be executed on the Exchange only if such executions would not trade through the protected quotations of other market centers. If the order is a routable order, then such order will be executed in accordance with BATS Rule 11.13(a), however, orders will not be routed away for execution at prices outside of the market order thresholds proposed in this rule filing, which applies both to market orders executed on the Exchange and to market orders that are to be routed away.

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

<sup>8</sup> 15 U.S.C. 78f(b)(5).

protection of investors and the public interest because such waiver will allow BATS Users to immediately benefit from the protections provided by BATS market orders. The Commission hereby grants the Exchange's request and designates the proposal operative upon filing.<sup>14</sup>

At any time within 60 days of the filing of such proposed rule change the Commission may summarily abrogate 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.

#### ii. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposal 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](mailto:rule-comments@sec.gov). Please include File No. SR-BATS-2009-001 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 No. SR-BATS-2009-001. 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 changes 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 BATS. 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 No. SR-BATS-2009-001 and should be submitted on or before February 17, 2009.

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

**Florence E. Harmon,**

*Deputy Secretary.*

[FR Doc. E9-1670 Filed 1-26-09; 8:45 am]

**BILLING CODE 8011-01-P**

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-59265; File No. SR-BSE-2008-36]

### Self-Regulatory Organizations; Boston Stock Exchange, Inc.; Order Approving Proposed Rule Change Relating to Delisting Standards

January 16, 2009.

#### I. Introduction

On November 3, 2008, the Boston Stock Exchange, Inc. ("BSE" or the "Exchange") filed with the Securities and Exchange Commission (the "Commission"), 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> a proposed rule change to adopt new criteria permitting the delisting of a security when the Exchange has terminated its program for listing and trading cash equities ("Listing Program") in connection with the discontinuation of trading in all securities listed on its market. The proposed rule change was published for comment in the **Federal Register** on November 28, 2008.<sup>3</sup> The Commission received no comments on the proposal.

<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.

<sup>3</sup> See Securities Exchange Act Release No. 58990 (November 20, 2008), 73 FR 72534 ("Notice"). In order for a company to voluntarily delist from the Exchange, it would have to follow the procedures set forth in Rule 12d2-2 under the Act, which includes the filing of a Form 25 with the Commission. See Rule 12d2-2 under the Act, 17 CFR 240.12d2-2.

This order approves the proposed rule change.

#### II. Description of the Proposed Rule Change

On September 5, 2007, the Exchange announced the discontinuation of the operations of the Boston Equities Exchange. In addition to that announcement, in October 2007, all issuers were given additional notice that the BSE had terminated its Listing Program. While trading in all securities on the BSE ceased on September 5, 2007, not all companies have delisted their securities from the Exchange by filing a Form 25 with the Commission.<sup>4</sup> As a result, the Exchange proposes to adopt new rules that would give it the authority to delist, under certain conditions, the remaining BSE-listed companies, because there is no basis to involuntarily delist these companies under BSE's existing rules.

Under the proposal, the Exchange may determine to delist a security when the Exchange has terminated its Listing Program in connection with the discontinuation of trading in all securities listed on its market. The proposed new rule will provide that at least 15 days before issuing such delisting determination, the Board of Directors or its designee must give notice of the delisting to the company. As soon as practicable after the issuance of the delisting determination, notice will be provided to the company and the Commission of such delisting determination. Notice to the company of the delisting determination shall inform the company of the opportunity to appeal, applying the same appeal rights that exist under BSE rules for any company involuntarily delisted by the Exchange when the BSE was operational.<sup>5</sup>

The Exchange represents that it would use this authority to delist on the grounds that BSE is not currently operating a listing program and, therefore, it is in the public interest that the Exchange not maintain any appearance of having any listings on the Exchange as long as programs for listing and trading cash equities and related activity have ceased. In addition, prior to implementing any involuntary delistings, the Exchange represented that it will contact each company and suggest that it file a Form 25 to effect a voluntary delisting before the Exchange issues any delisting determination. Thereafter, the Exchange will move to delist those companies that do not act

<sup>4</sup> As of the date of the Notice, twenty-nine issuers currently have listings with the Exchange.

<sup>5</sup> See *infra* note 6.

<sup>14</sup> For the purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).