

necessary or appropriate in furtherance of the purposes of the Act.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

Written comments were neither solicited nor received.

**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 (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission shall:

(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](mailto:rule-comments@sec.gov). Please include File Number SR-FINRA-2011-006 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-FINRA-2011-006. 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 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 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of FINRA. 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-FINRA-2011-006 and should be submitted on or before March 15, 2011.

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

**Cathy H. Ahn,**

*Deputy Secretary.*

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**SECURITIES AND EXCHANGE COMMISSION**

**[Release No. 34-63916; File No. SR-BATS-2011-005]**

**Self-Regulatory Organizations; BATS Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend BATS Rule 11.13, Entitled "Order Execution"**

February 15, 2011.

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 February 14, 2011, 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. BATS has designated the proposed rule change as constituting a rule change under Rule 19b-4(f)(6) under the Act,<sup>3</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>7</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> 17 CFR 240.19b-4(f)(6).

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

The Exchange proposes to amend BATS Rule 11.13, entitled "Order Execution," to modify the description of the SLIM routing strategy offered by the Exchange. The Exchange proposes to implement the proposed rule change on February 25, 2011, or as soon thereafter as practicable.

**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 Rule 11.13, which describes its order routing processes, to modify the description of the SLIM routing strategy offered by the Exchange.

Currently, various routing strategies are available through BATS, including the SLIM routing strategy. As described in Rule 11.13(a)(3)(H), SLIM is a routing option under which an order will check the System for available shares, will be routed to BATS Y-Exchange, Inc. ("BYX"),<sup>4</sup> and then will be sent to destinations on the System routing table. The Exchange currently allows a User<sup>5</sup> to designate whether an order routed through the TRIM routing strategy should check the Exchange's order book before routing away. This optional initial check of the Exchange's order book is not currently available for SLIM, but rather SLIM routed orders always check the Exchange's order book before routing away. The Exchange

<sup>4</sup> BYX is a registered national securities exchange and affiliate of the Exchange. See Securities Exchange Act Release No. 34-62716 (August 13, 2010), 75 FR 51295 (August 19, 2010) (order approving application of BATS Y-Exchange, Inc. for registration as a national securities exchange). BYX commenced operations on October 15, 2010.

<sup>5</sup> As defined in Rule 1.5(cc), the term "User" means any Member or Sponsored Participant who is authorized to obtain access to the System pursuant to BATS Rule 11.3.

proposes to modify the description of SLIM to provide Users with two distinct SLIM routing options. The first SLIM routing option will be to check the System for available shares and then route to destinations on the System routing table. The second SLIM routing option will first route to the Exchange's affiliate, BATS Y-Exchange, Inc., return to the Exchange and check the System for available shares, and then route to destinations on the System routing table.

## 2. Statutory Basis

The rule change proposed in this submission 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) of the Act.<sup>6</sup> Specifically, the proposed change is consistent with Section 6(b)(5) of the Act,<sup>7</sup> because it is 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 facilitating transactions in securities, and to remove impediments to, and perfect the mechanism of, a free and open market and a national market system. The proposed change to modify the SLIM routing strategy will provide market participants with greater flexibility in routing orders consistent with Regulation NMS without developing complicated order routing strategies on their own.

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

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

### *C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others*

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

## III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has

become effective pursuant to Section 19(b)(3)(A) of the Act<sup>8</sup> and Rule 19b-4(f)(6) thereunder.<sup>9</sup>

A proposed rule change filed pursuant to Rule 19b-4(f)(6) under the Act<sup>10</sup> normally does not become operative for 30 days after the date of its filing. However, Rule 19b-4(f)(6)<sup>11</sup> permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. BATS requests that the Commission waive the 30-day operative delay in order to immediately offer Exchange Users an additional option in use of the SLIM routing strategy, and believes that proposed change to the SLIM routing strategy will benefit market participants and their customers by allowing them greater flexibility in their efforts to fill orders and minimize trading costs. The Exchange also believes that a delay to the implementation date would put the Exchange at a competitive disadvantage to other markets that already offer a similar option. The Commission believes that accelerating the 30-day operative delay<sup>12</sup> is consistent with the protection of investors and the public interest and designates the proposal operative upon filing.

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.

## 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

<sup>8</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>9</sup> 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file 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. BATS has satisfied this requirement.

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

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

<sup>12</sup> For 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).

- Send an e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-BATS-2011-005 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-BATS-2011-005. 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 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 a.m. and 3 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 publicly available. All submissions should refer to File Number SR-BATS-2011-005 and should be submitted on or before March 15, 2011.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>13</sup>

**Cathy H. Ahn,**

*Deputy Secretary.*

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<sup>13</sup> 17 CFR 200.30-3(a)(12).

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

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