

NOS, as well as demonstrated that NOS cannot use any information advantage it may have because of its affiliation with the Exchange. Since the Exchange has met all the above-listed conditions, it now seeks permanent approval of the Phlx and NOS inbound routing relationship. The Exchange will continue to comply with the conditions 1–4 stated above.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,¹⁵ in general, and with Section 6(b)(5) of the Act,¹⁶ in particular, in that the proposal 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 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. Specifically, the proposed rule change will allow the Exchange to continue receiving inbound routes of certain orders from NOS in a manner consistent with prior approvals and established protections. The Exchange believes that having met the commitments established during the pilot program demonstrates that the Exchange has mechanisms that protect the independence of the Exchange's regulatory responsibility with respect to NOS, as well as demonstrate that NOS cannot use any information advantage it may have because of its affiliation with the Exchange.

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

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act, as amended.

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 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-Phlx-2011-111 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-Phlx-2011-111. 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 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-Phlx-2011-111 and should be submitted on or before September 9, 2011.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁷

Elizabeth M. Murphy,
Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-65133; File No. SR-BATS-2011-029]

Self-Regulatory Organizations; BATS Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Offer a Bulk-Quoting Interface

August 15, 2011.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),¹ and Rule 19b-4 thereunder,² notice is hereby given that on August 9, 2011, BATS Exchange, Inc. (the "Exchange" or "BATS") 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 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 related to the BATS Options Market ("BATS Options") to introduce a bulk-quoting interface for BATS Options Market Makers³ that will help them meet their obligations as market makers and to

¹⁷ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ As defined in Rule 16.1(a)(37), a "Market Maker" on BATS Options is a member of BATS Options registered with the Exchange for the purpose of making markets in options contracts traded on the Exchange and that is vested with the rights and responsibilities specified in Chapter XXII of the Exchange's Rules.

¹⁵ 15 U.S.C. 78f.

¹⁶ 15 U.S.C. 78f(b)(5).

provide liquidity to the market in an efficient manner.

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 currently offers an order-based market making interface for the BATS Options trading platform. Market Makers use this interface to provide a two-sided quotation on BATS Options. Since it is an order-based interface, a two-sided quotation requires the entry of both a buy and a sell order. As part of several technological enhancements the Exchange plans to implement on BATS Options, the Exchange proposes to introduce a bulk-quoting interface for market makers in order to offer an additional market making interface choice to BATS Options Market Makers. The proposed bulk-quoting market making interface will be used by Market Makers to submit and update their quotations in the marketplace much like the current order-based interface is used today. The bulk-quoting interface, however, allows Market Makers to provide both a bid and an offer in one message. In addition, the bulk-quoting interface allows Market Makers to bundle several quote updates into one bulk message. This is a useful feature for Market Makers that provide quotations in many different options.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act⁴ in general, and furthers the objectives of Section 6(b)(5) of the Act⁵

in particular, in that it is designed to promote just and equitable principles of trade, 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. The Exchange believes this proposal is in keeping with those principles by protecting investors and the public interest, as well as promoting just and equitable principles of trade, through the addition of a new market making interface option for BATS Options Market Makers, which by aiding Market Makers in their market making activities will help to enhance market liquidity for investors.

(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 Act⁶ and Rule 19b-4(f)(6) thereunder.⁷

A proposed rule change filed under Rule 19b-4(f)(6)⁸ normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b-4(f)(6)(iii),⁹ the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Exchange notes that the proposed rule change is a non-controversial system change and would not affect the execution of trades. The Exchange also notes that prompt implementation would extend the

benefits and new features to BATS Options Market Makers more quickly. For these reasons, the Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest, and designates the proposed rule change to be operative upon filing with the Commission.¹⁰

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. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. 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. Please include File No. SR-BATS-2011-029 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-2011-029. 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

¹⁰ For purposes only of waiving the operative delay for this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

⁶ 15 U.S.C. 78s(b)(3)(A).

⁷ 17 CFR 240.19b-4(f)(6).

⁸ 17 CFR 240.19b-4(f)(6).

⁹ 17 CFR 240.19b-4(f)(6)(iii).

⁴ 15 U.S.C. 78f(b).

⁵ 15 U.S.C. 78f(b)(5).

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 will also 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 No. SR-BATS-2011-029 and should be submitted on or before September 9, 2011.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹¹

Elizabeth M. Murphy,
Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-65134; File No. SR-NYSEArca-2011-23]

Self-Regulatory Organizations; NYSE Arca, Inc.; Order Granting Approval of Proposed Rule Change To List and Trade Shares of ProShares Short VIX Short-Term Futures ETF, ProShares Short VIX Mid-Term Futures ETF, ProShares Ultra VIX Short-Term Futures ETF, ProShares Ultra VIX Mid-Term Futures ETF, ProShares UltraShort VIX Short-Term Futures ETF, and ProShares UltraShort VIX Mid-Term Futures ETF Under NYSE Arca Equities Rule 8.200, Commentary .02

August 15, 2011.

I. Introduction

On April 28, 2011, NYSE Arca, Inc. ("Exchange" or "NYSE Arca") filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")¹ and Rule 19b-4 thereunder,² a proposed rule change to list and trade shares ("Shares") of ProShares Short VIX Short-Term Futures ETF, ProShares Short VIX Mid-Term Futures ETF

("Short Funds"), ProShares Ultra VIX Short-Term Futures ETF, ProShares Ultra VIX Mid-Term Futures ETF ("Ultra Funds"), ProShares UltraShort VIX Short-Term Futures ETF, and ProShares UltraShort VIX Mid-Term Futures ETF ("UltraShort Funds" and, together with the Short Funds and Ultra Funds, the "Funds") under NYSE Arca Equities Rule 8.200, Commentary .02. The proposed rule change was published in the **Federal Register** on May 17, 2011.³ The Commission received no comments on the proposal. On July 1, 2011, the Exchange submitted a request to extend the Commission's action date for the proposed rule change to August 15, 2011. This order grants approval of the proposed rule change.

II. Description of the Proposal

The Exchange proposes to list and trade the Shares pursuant to NYSE Arca Equities Rule 8.200, Commentary .02, which permits the trading of Trust Issued Receipts. ProShare Capital Management LLC ("Sponsor"), a Maryland limited liability company, serves as the Sponsor of ProShares Trust II ("Trust") and is a commodity pool operator and commodity trading advisor.⁴ Brown Brothers Harriman & Co. serves as the administrator ("Administrator"), custodian, and transfer agent of the Funds and their respective Shares. SEI Investments Distribution Co. serves as Distributor of the Shares. Wilmington Trust Company, a Delaware banking corporation, is the sole trustee of the Trust.

The Funds seek, on a daily basis, to provide investment results (before fees and expenses) that correspond to the inverse of the daily performance, a multiple of the daily performance, or an inverse multiple of the daily performance of a benchmark that seeks to offer exposure to market volatility through publicly traded futures markets. The benchmark for ProShares Short VIX Short-Term Futures ETF, ProShares Ultra VIX Short-Term Futures ETF, and ProShares UltraShort VIX Short-Term Futures ETF is the S&P 500 VIX Short-Term Futures Index, and the benchmark for ProShares Short VIX Mid-Term Futures ETF, ProShares Ultra VIX Mid-Term Futures ETF, and ProShares UltraShort VIX Mid-Term Futures ETF is the S&P 500 VIX Mid-Term Futures Index (each, an "Index," and,

collectively, the "Indexes").⁵ The Funds will take long (in the case of the Ultra Funds) and short (in the case of the Short and UltraShort Funds) positions in futures contracts based on the Chicago Board Options Exchange ("CBOE") Volatility Index ("VIX") and, under limited circumstances, swap agreements (as described below), to pursue their respective investment objectives. Each Fund also may invest in cash or cash equivalents such as U.S. Treasury securities or other high credit quality short-term fixed-income, or similar securities that may serve as collateral for the futures contracts and swap agreements.

Specifically, each Fund seeks to achieve its investment objective by investing under normal market conditions⁶ in VIX futures contracts traded on the CBOE Futures Exchange ("CFE") ("VIX Futures Contracts") such that each Fund has exposure intended to approximate the inverse of the daily performance, a multiple of the daily performance, or an inverse multiple of the daily performance of its respective Index at the time of the net asset value ("NAV") calculation. In the event position accountability rules are reached with respect to VIX Futures Contracts, the Sponsor may, in its commercially reasonable judgment, cause such Fund to obtain exposure through swaps referencing the relevant Index or particular VIX Futures Contracts, or invest in other futures contracts or swaps not based on the particular VIX Futures Contracts if such instruments tend to exhibit trading prices or returns that correlate with the Indexes or any VIX Futures Contract and will further the investment objective of such Fund.⁷ The Funds may also invest in swaps if the market for a specific futures contract experiences emergencies or disruptions that prevent a Fund from obtaining the appropriate amount of investment exposure to the

⁵ Standard & Poor's Financial Services LLC, the index sponsor with respect to the Indexes, is not a broker-dealer and has implemented procedures designed to prevent the use and dissemination of material, non-public information regarding the Indexes.

⁶ The term "under normal conditions" includes, but is not limited to, the absence of extreme volatility or trading halts in the futures markets or the financial markets generally; operational issues causing dissemination of inaccurate market information; or force majeure type events such as systems failure, natural or man-made disaster, act of God, armed conflict, act of terrorism, riot or labor disruption or any similar intervening circumstance.

⁷ To the extent practicable, the Funds will invest in swaps cleared through the facilities of a centralized clearing house.

³ See Securities Exchange Act Release No. 64470 (May 11, 2011), 76 FR 28493 ("Notice").

⁴ The Funds have filed a registration statement on Form S-3 under the Securities Act of 1933. See Post-Effective Amendment No. 4 dated April 13, 2011 (File No. 333-163511) to the Trust's Registration Statement on Form S-3 ("Registration Statement").

¹¹ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.