available publicly. All submissions should refer to File No. SR–BX–2013–022 and should be submitted on or before March 29, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[19]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–05866 Filed 3–13–13; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–69079; File No. SR–BATS–2013–017]

Self-Regulatory Organizations; BATS Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Related to Fees for Use of BATS Exchange, Inc.

March 8, 2013.

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 March 1, 2013, BATS Exchange, Inc. (the ''Exchange'' or ''BATS'') 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. The Exchange has designated the proposed rule change as one establishing or changing a member due, fee, or other charge imposed by the Exchange under Section 19(b)(3)(A)(ii) of the Act[3] and Rule 19b–4(f)(2) thereunder,[4] which renders the proposed rule change 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 proposes to amend the fee schedule applicable to Members[5] and non-members of the Exchange pursuant to BATS Rules 15.1(a) and (c). Changes to the fee schedule pursuant to this proposal are effective upon filing.

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 modify pricing applicable to the Exchange's options platform (''BATS Options'') with respect to executions subject to the Quoting Incentive Program (the ''QIP''). Specifically, the Exchange proposes to require that a Member is registered as a BATS Options Market Maker in order to receive any additional rebate subject to the QIP and to add volume tiers that will determine the amount of the additional rebate a BATS Options Market Maker will receive for executions that are eligible for the QIP.

Currently under the QIP, Professional,[6] Firm, and Market Maker[7] orders entered on BATS Options receive a rebate of $0.05 per contract, in addition to any other applicable liquidity rebate, for executions subject to the QIP. Qualifying Customer[8] order executions subject to the QIP currently receive an additional rebate of $0.01 per contract. To qualify for the QIP a BATS Options Market Maker must be at the NBB or NBO 60% of the time for series trading between $0.03 and $5.00 for the front three (3) expiration months in that underlying during the current trading month. A Member not registered as a BATS Options Market Maker can also qualify for the QIP by quoting at the NBB or NBO 70% of the time in such series.

The Exchange proposes to require that a Member is registered as a Market Maker in order to be eligible to receive any rebates subject to the QIP. This modification will help to incentivize Members that are not currently registered as Market Makers that currently receive rebates subject to the QIP to register as BATS Options Market Makers. Additionally, the Exchange proposes to require that, in order to receive QIP rebates for executions of contracts in an options class, a Market Maker must be registered in an average of 20% or more of the associated options series in that class. This requirement will ensure that Market Makers are not eligible for QIP rebates without being registered in what the Exchange believes to be a meaningful number of series.

The Exchange also proposes to add volume tiers that will determine the amount of the additional rebate a BATS Options Market Maker will receive for executions that are eligible for the QIP. Specifically, under the proposed tiered pricing structure, Market Makers with an average daily volume (''ADV'')[9] less than 0.25% of average total consolidated volume (''TCV'')[10] will receive an additional $0.01 per contract executed on BATS Options for Customer orders and an additional $0.05 per contract executed on BATS Options for Professional, Firm, and Market Maker orders. Market Makers with an ADV equal to or greater than 0.25%, but less than 0.75% of TCV will receive an additional $0.03 per contract executed on BATS Options for Customer orders and an additional $0.05 per contract executed on BATS Options for Professional, Firm, and Market Maker orders. Market Makers with an ADV equal to or greater than 0.75%, but less than 1.25% of TCV will receive an additional $0.03 per contract executed on BATS Options for Customer orders and an additional $0.06 per contract executed on BATS Options for Professional, Firm, and Market Maker orders. Finally, Market Makers with an ADV equal to or greater than 1.25% of

[19] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(ii).

[4] 17 CFR 240.19b–4(f)(2).

[5] A Member is any registered broker or dealer that has been admitted to membership in the Exchange.

[6] The term ''Professional'' is defined in Exchange Rule 16.1 to mean any person or entity that (A) is not a broker or dealer in securities, and (B) places more than 390 orders in listed options per day on average during a calendar month for its own beneficial account(s).

[7] As defined on the Exchange's fee schedule, the terms ''Firm'' and ''Market Maker'' apply to any transaction identified by a member for clearing in the Firm or Market Maker range, respectively, at the Options Clearing Corporation (''OCC'').

[8] As defined on the Exchange's fee schedule, a Customer order refers to an order identified by a Member for clearing in the Customer range at the OCC, excluding any transaction for a ''Professional'' as defined in Exchange Rule 16.1.

[9] As defined on the Exchange's fee schedule, ADV is average daily volume calculated as the number of contracts added or removed, combined, per day on a monthly basis. The fee schedule also provides that routed contracts are not included in ADV calculation.

[10] As defined on the Exchange's fee schedule, TCV is total consolidated volume calculated as the volume reported by all exchanges to the consolidated transaction reporting plan for the month for which the fees apply.

TCV will receive an additional $0.03 per contract executed on BATS Options for Customer orders and an additional $0.08 per contract executed on BATS Options for Professional, Firm, and Market Maker orders.

2. Statutory Basis

The Exchange believes that the proposed rule change 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 of the Act.[11] Specifically, the Exchange believes that the proposed rule change is consistent with Section 6(b)(4) of the Act,[12] in that it provides for the equitable allocation of reasonable dues, fees and other charges among members and other persons using any facility or system which the Exchange operates or controls. The Exchange notes that it operates in a highly competitive market in which market participants can readily direct order flow to competing venues or providers of routing services if they deem fee levels to be excessive.

The Exchange believes that requiring Members to register as Market Makers in order to receive rebates subject to QIP will help to incentivize Members to register with BATS Options as Market Makers. The Exchange believes that registration by additional Members as Market Makers will help to continue to increase the breadth and depth of quotations available on the Exchange, which is beneficial to all market participants. The Exchange believes that it is reasonable, equitable and not unreasonably discriminatory to provide an incentive available only to BATS Options Market Makers because of the requisite quoting and other obligations applicable to registered BATS Options Market Makers. The Exchange further believes that the proposal is not unfairly discriminatory, despite the requirement that a Member is registered as a Market Maker in order to receive rebates pursuant to the QIP, due to the fact that registration as a BATS Options Market Maker is equally available to all Members. Additionally, the Exchange believes that requiring that a Market Maker be registered in an average of 20% or more of the associated options series in a class in order to qualify for QIP rebates for that class will further help to increase the breadth and depth of quotations available on the Exchange by requiring Market Makers to meet the BATS Options Market Maker quoting requirements in a meaningful number of series in a class.

Volume-based rebates such as the ones maintained by the Exchange have been widely adopted in the cash equities markets and are increasingly in use by the options exchanges. Volume-based tiers are equitable in this instance because they are open to all BATS Options Market Makers on an equal basis and will provide enhanced rebates that are reasonably related to the value to the Exchange's market quality associated with higher levels of market activity, such as higher levels of liquidity provision and/or growth patterns, and introduction of higher volumes of orders into the price and volume discovery processes. Accordingly, the Exchange believes that offering volume-based rebates for orders subject to the QIP is not unfairly discriminatory because it is consistent with the overall goals of enhancing market quality. Additionally, the Exchange believes that the proposed volume-based tiers, which will incentivize the provision of competitively priced, sustained liquidity that will create tighter spreads, benefitting both Members and public investors. Similarly, the Exchange believes that basing the proposed tiered fee structure on overall TCV, rather than a static number of contracts irrespective of overall volume in the options industry, is a fair and equitable approach to pricing. The Exchange notes that this proposal is not reducing the base QIP rebate, but rather, the proposal will provide enhanced QIP rebates to Market Makers that meet certain volume thresholds.

(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. The proposed changes will help the Exchange to create higher levels of liquidity provision and/or growth patterns, and introduction of higher volumes of orders into the price and volume discovery processes. As stated above, the Exchange notes that it operates in a highly competitive market in which market participants can readily direct order flow to competing venues if they deem fee levels to be excessive or providers of routing services if they deem fee levels to be excessive.

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

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any written comments from members or other interested parties.

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 Act[13] and paragraph (f) of Rule 19b–4 thereunder.[14] 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 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 email to *rule-comments@sec.gov.* Please include File No. SR–BATS–2013–017 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–2013–017. This file number should be included on the subject line if email 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

[11] 15 U.S.C. 78f.

[12] 15 U.S.C. 78f(b)(4).

[13] 15 U.S.C. 78s(b)(3)(A)(ii).

[14] 17 CFR 240.19b–4(f).

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 10:00 a.m. and 3:00 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–2013–017 and should be submitted on or before April 4, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[15]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–05879 Filed 3–13–13; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–69088; File No. SR–BYX–2013–010]

Self-Regulatory Organizations; BATS Y-Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Exchange Rules in Connection With the Limit Up-Limit Down Plan

March 8, 2013.

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 February 28, 2013, BATS Y-Exchange, Inc. (''BYX'' or ''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 [3] and Rule 19b–4(f)(6)(iii) thereunder,[4] 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 Rule 11.18 in connection with the upcoming operation of the Plan to Address Extraordinary Market Volatility Pursuant to Rule 608 of Regulation NMS under the Act (the ''Limit Up-Limit Down Plan'' or ''Plan'').[5]

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 Exchange Rule 11.18 to establish rules to comply with the requirements of the Limit Up-Limit Down Plan. The Exchange proposes to adopt the changes to become operative on a date that coincides with the commencement of operations of the Plan, which is currently scheduled as a one-year pilot to begin on April 8, 2013. Accordingly, as proposed, the Exchange has designated an operative date of April 8, 2013 to allow the Rules to become effective and operative on the initial date of operation of the Plan.

Background

Since May 6, 2010, when the markets experienced excessive volatility in an abbreviated time period, *i.e.,* the ''flash crash,'' the equities exchanges and FINRA have implemented market-wide measures designed to restore investor confidence by reducing the potential for excessive market volatility. Among the measures adopted include pilot plans for stock-by-stock trading pauses [6] and related changes to the equities market clearly erroneous execution rules [7] and more stringent equities market maker quoting requirements.[8] On May 31, 2012, the Commission approved the Plan, as amended, on a one-year pilot basis.[9] In addition, the Commission approved changes to the equities market-wide circuit breaker rules on a pilot basis to coincide with the pilot period for the Plan.[10]

The Plan is designed to prevent trades in individual NMS Stocks from occurring outside of specified Price Bands.[11] As described more fully below, the requirements of the Plan are coupled with Trading Pauses to accommodate more fundamental price moves (as opposed to erroneous trades or momentary gaps in liquidity). All trading centers in NMS Stocks, including both those operated by Participants and those operated by members of Participants, are required to establish, maintain, and enforce written policies and procedures that are reasonably designed to comply with the requirements specified in the Plan.[12] As set forth in more detail in the Plan, Price Bands consisting of a Lower Price Band and an Upper Price Band for each NMS Stock are calculated by the Processors.[13] When the National Best Bid (Offer) is below (above) the Lower (Upper) Price Band, the Processors shall disseminate such National Best Bid (Offer) with an appropriate flag identifying it as non-executable. When the National Best Bid (Offer) is equal to the Upper (Lower) Price Band, the Processors shall distribute such National Best Bid (Offer) with an appropriate flag identifying it as a Limit State Quotation.[14] All trading

[15] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(6)(iii).

[5] *See* Securities Exchange Act Release No. 67091 (May 31, 2012), 77 FR 33498 (June 6, 2012) (the ''Limit Up-Limit Down Release'').

[6] *See, e.g.,* Rule 11.18.

[7] *See, e.g.,* Rule 11.17.

[8] *See, e.g.,* Rule 11.8.

[9] *See* Securities Exchange Act Release No. 67091 (May 31, 2012), 77 FR 33498 (June 6, 2012) (File No. 4–631) (Order Approving, on a Pilot Basis, the National Market System Plan To Address Extraordinary Market Volatility).

[10] *See* Securities Exchange Act Release No. 67090 (May 31, 2012), 77 FR 33531 (June 6, 2012) (SR–BATS–2011–038; SR–BYX–2011–025; SR–BX–2011–068; SR–CBOE–2011–087; SR–C2–2011–024; SR–CHX–2011–30; SR–EDGA–2011–31; SR–EDGX–2011–30; SR–FINRA–2011–054; SR–ISE–2011–61; SR–NASDAQ–2011–131; SR–NSX–2011–11; SR–NYSE–2011–48; SR–NYSEAmex–2011–73; SR–NYSEArca–2011–68; SR–Phlx–2011–129).

[11] Unless otherwise specified, capitalized terms used in this rule filing are based on the defined terms of the Plan.

[12] The Exchange is a Participant in the Plan.

[13] *See* Section (V)(A) of the Plan.

[14] *See* Section VI(A) of the Plan.