

rebates and tiers in place on other exchanges. The Exchange believes that this competitive marketplace continues to impact the rebates present on the Exchange today and substantially influences the proposals set forth above.

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

No written comments were either solicited or received.

**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)(ii) of the Act.<sup>29</sup> 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 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 email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-NASDAQ-2013-091 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-NASDAQ-2013-091. 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](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 10:00 a.m. and 3:00 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 available publicly. All submissions should refer to File Number SR-NASDAQ-2013-091, and should be submitted on or before July 31, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>30</sup>

Elizabeth M. Murphy,  
Secretary.

[FR Doc. 2013-16530 Filed 7-9-13; 8:45 am]

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**SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-69932; File No. SR-BYX-2013-024]

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

July 3, 2013.

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 June 28, 2013, BATS Y-Exchange, Inc. (the "Exchange" or "BYX") 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<sup>3</sup> and Rule 19b-4(f)(2) thereunder,<sup>4</sup> 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 the Substance of the Proposed Rule Change**

The Exchange proposes to amend the fee schedule applicable to Members<sup>5</sup> and non-members of the Exchange pursuant to BYX Rules 15.1(a) and (c). While changes to the fee schedule pursuant to this proposal will be effective upon filing, the changes will become operative on July 1, 2013.

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 begin charging a monthly fee for the Multicast PITCH Spin Server Port and GRP Port, each of which are logical ports<sup>6</sup> used to receive data from

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

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

<sup>5</sup> A Member is any registered broker or dealer that has been admitted to membership in the Exchange.

<sup>6</sup> A logical port is commonly referred to as a TCP/IP port, and represents a port established by the Exchange within the Exchange's system for trading and billing purposes. Each logical port established is specific to a Member or non-member and grants that Member or non-member the ability to operate a specific application, such as FIX order entry or Multicast PITCH data receipt. Logical port fees are limited to logical ports in the Exchange's primary data center and no logical port fees are assessed for redundant secondary data center ports.

<sup>30</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>29</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

the Exchange.<sup>7</sup> Currently, the Exchange charges a monthly fee for all other port types used to enter orders in the Exchange's system and to receive data from the Exchange;<sup>8</sup> however, the Exchange provides 32 primary Multicast PITCH Spin Server Ports free of charge (32 ports currently makes a complete set of Spin Server Ports) and, if such ports are used, one free primary GRP Port. In addition, all redundant Multicast PITCH Spin Server Ports and GRP Ports are provided free of charge.<sup>9</sup> Currently, the Exchange charges \$400 per month per additional set of primary Multicast PITCH Spin Server Ports and \$400 per month per additional primary GRP Port.

Beginning July 1, 2013, the Exchange proposes to charge \$400 per month per set of primary Multicast PITCH Spin Server Ports and \$400 per month per primary GRP Port. The Exchange is also proposing to eliminate the reference to the exact number of ports that makes a complete set of Multicast Spin Server Ports, as this number has changed in the past and could again change in the future. A complete set of Multicast Spin Server Ports is the number of ports necessary to get one full set of information from the Exchange based on load balancing by the Exchange.<sup>10</sup> The Exchange believes that this concept is clearly understood amongst recipients of Multicast data, and, therefore, does not believe that eliminating the fee schedule reference to the exact number of ports necessary to receive Exchange PITCH data via Multicast will cause confusion amongst recipients of Multicast data.

Based on the proposal, the change applies to Members that obtain ports for direct access to the Exchange, Sponsored Participants sponsored by Members to receive direct access to the

<sup>7</sup> BYX FIX ports are the only ports that may be used to send orders and related instructions to the Exchange. All other port types, including the Multicast PITCH Spin Server Port and GRP Port, permit Members and non-members to receive information from the Exchange.

<sup>8</sup> The Exchange currently charges a monthly fee for all other Exchange FIX, FIXDROP, BOE, DROP, TCP PITCH, and TOP ports.

<sup>9</sup> Exchange Multicast PITCH data feed is currently offered through two primary feeds, identified as the "A feed" and the "C feed", which contain the same information but differ only in the way such feeds are received. The Exchange offers for free the ports necessary to receive the Exchange's redundant Multicast "B feed" and "D feed", as well as all ports made available in the Exchange's secondary data center. Accordingly, this proposal only applies to ports used to receive an Exchange primary Multicast Feed at the Exchange's primary data center.

<sup>10</sup> The Exchange load balances information regarding securities traded on the Exchange across multiple channels (today 32) with each channel requiring a separate Multicast PITCH Spin Server Port.

Exchange, non-member service bureaus that act as a conduit for orders entered by Exchange Members that are their customers, and market data recipients.

## 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.<sup>11</sup> Specifically, the Exchange believes that the proposed rule change is consistent with Section 6(b)(4) of the Act,<sup>12</sup> 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 operates in a highly competitive market in which exchanges offer connectivity services as a means to facilitate the trading activities of members and other participants. Accordingly, fees charged for connectivity are constrained by the active competition for the order flow of such participants as well as demand for market data from the Exchange. If a particular exchange charges excessive fees for connectivity, affected members will opt to terminate their connectivity arrangements with that exchange, and adopt a possible range of alternative strategies, including routing to the applicable exchange through another participant or market center or taking that exchange's data indirectly. Accordingly, the exchange charging excessive fees would stand to lose not only connectivity revenues but also revenues associated with the execution of orders routed to it by affected members, and, to the extent applicable, market data revenues. The Exchange believes that this competitive dynamic imposes powerful restraints on the ability of any exchange to charge unreasonable fees for connectivity.

The Exchange believes that its proposed changes to logical port fees are reasonable in light of the benefits to Exchange participants of direct market access and receipt of data.<sup>13</sup> In addition, the Exchange believes that its fees are equitably allocated among Exchange constituents based upon the number of access ports that they require to receive data from the Exchange. Further, the

Exchange believes that its fees are not unreasonably discriminatory because all market participants are charged standard fees for port usage. The Exchange notes that it believes its prior fee structure, under which ports necessary for receipt of Multicast data were provided free of charge, was reasonable, equitably allocated and not unreasonably discriminatory because it was available to all market participants and was intended to encourage the use of Multicast PITCH. However, by moving towards a more uniform approach to ports billing, the Exchange believes that its fees are even more equitably allocated and nondiscriminatory. The Exchange also believes that its fees for access services will enable it to better cover its infrastructure costs and to improve its market technology and services.

### 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 discussed above, the Exchange believes that fees for connectivity are constrained by the robust competition for order flow among exchanges and non-exchange markets. Further, excessive fees for connectivity, including logical port fees, would serve to impair an exchange's ability to compete for order flow rather than burdening competition.

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

No written comments were solicited or received.

## 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<sup>14</sup> and paragraph (f) of Rule 19b-4 thereunder.<sup>15</sup> 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

<sup>11</sup> 15 U.S.C. 78f.

<sup>12</sup> 15 U.S.C. 78f(b)(4).

<sup>13</sup> Through a different filing, beginning July 1, 2013, the Exchange has proposed to implement fees for the BYX PITCH (including both TCP PITCH and Multicast PITCH) TOP, and Last Sale Feed data products.

<sup>14</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

<sup>15</sup> 17 CFR 240.19b-4(f).

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 email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-BYX-2013-024 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-BYX-2013-024. 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 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 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 available publicly. All submissions should refer to File Number SR-BYX-2013-024 and should be submitted on or before July 31, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>16</sup>

**Elizabeth M. Murphy,**  
*Secretary.*

[FR Doc. 2013-16531 Filed 7-9-13; 8:45 am]

**BILLING CODE 8011-01-P**

## **SECURITIES AND EXCHANGE COMMISSION**

**[Release No. 34-69931; File No. SR-BATS-2013-038]**

### **Self-Regulatory Organizations; BATS Exchange, Inc.; Notice of Filing of a Proposed Rule Change, as Modified by Amendment No. 1, To Adopt Listing Standards for Certain Securities**

July 3, 2013.

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 June 21, 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 filing was amended and replaced in its entirety by Amendment No. 1 thereto on July 2, 2013, and which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change, as modified by Amendment No. 1, from interested persons.

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

The Exchange filed a proposal to adopt rules for the qualification, listing and delisting of companies on the Exchange. Specifically, the Exchange proposes to adopt rules applicable to the following securities (all of which are defined below): Equity Index-Linked Securities, Commodity-Linked Securities,<sup>3</sup> Fixed Income Index-Linked Securities, Futures-Linked Securities, Multifactor Index-Linked Securities, Index-Linked Exchangeable Notes; Equity Gold Shares; Trust Certificates; Commodity-Based Trust Shares; Currency Trust Shares; Commodity

<sup>16</sup> 17 CFR 200.30-3(a)(12).

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

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

<sup>3</sup> Exchange Rules 14.11(d)(2)(G) and (H) currently include initial listing standards applicable to Equity Index-Linked Securities and Commodity-Linked Securities. The Exchange proposes to re-number the existing rule text in Rules 14.11(d)(2)(G) and (H), and to adopt continuing listing standards applicable to Equity Index-Linked Securities and Commodity-Linked Securities, in proposed Rules 14.11(d)(2)(K)(i) and (ii).

Index Trust Shares; Commodity Futures Trust Shares; Partnership Units; Trust Units; Managed Trust Securities; and Currency Warrants. Specifically, the proposal would adopt the relevant listing standards of the NASDAQ Stock Market LLC ("Nasdaq"), as set forth below. The Exchange also proposes changes to delete certain rule text from Rule 14.11(h), "Listing Requirements for Securities Not Specified Above (Other Securities)," to conform to the current listing standards of Nasdaq and to delete rule text that would become duplicative at the time the proposed rule becomes operative.

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 the Statutory Basis for, the Proposed Rule Change*

###### **1. Purpose**

This Amendment No. 1 to SR-BATS-2013-038 amends and replaces in its entirety the proposal as originally submitted on September 25, 2012. Amendment No. 1 corrects certain inconsistencies between the proposed rules and the descriptions of such proposed rules as well as various typographical and grammatical errors contained in the original filing.

The Exchange is proposing rules to adopt listing standards for each of the products enumerated above on the Exchange. Chapter XIV of the Exchange's Rules sets forth the rules applicable to securities listed on the Exchange (the "Listing Rules"). The Exchange is also proposing to make several non-substantive grammatical and technical changes to the Listing Rules. The Exchange's Listing Rules govern the qualification, listing and delisting of Securities on the Exchange.