

benefit to investors by giving them more flexibility to closely tailor their investment and hedging decisions to their needs. Further, the Exchange does not believe that the proposal will cause market fragmentation or result in decreased liquidity.

#### *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. To the contrary, the Exchange believes that the proposal will allow the Exchange to compete more effectively with other options exchanges that have already adopted changes to their STOS Programs that are materially identical to the changes proposed by this filing.

#### *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 with respect to 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 significantly affect the protection of investors or the public interest, does not impose any significant burden on competition, and, by its terms, does not 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>

The Exchange has requested that the Commission waive the 30-day operative delay. The Commission believes that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest in that it will allow NYSE MKT to select option classes that are eligible to participate in the STOS Program in a manner substantially similar to the corresponding rules of other exchanges.<sup>10</sup> In sum, the proposed rule

change presents no novel issues, and waiver will allow the Exchange to remain competitive with other exchanges. Therefore, the Commission designates the proposal operative upon filing.<sup>11</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 under Section 19(b)(2)(B)<sup>12</sup> of the Act to determine whether the proposed rule change 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-NYSEMKT-2013-68 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-NYSEMKT-2013-68. 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

<sup>8</sup> Rules 5.5 and 24.9; NOM Rules Chapter IV, Section 6, Supplementary Material .07; Chapter XIV, Section 11(h)(1)(i); ISE Rules 504, Supplementary Material .02(a) and 2009, Supplementary Material .01(a); and PHLX Rules 1012, Commentary .11(a) and 1101A(b)(vi)(A). NOM and BATS, like NYSE Arca, each began its STOS Program in 2010, with five-class limits similar to that provided for in Commentary .07 to NYSE Arca Rule 6.4. See Securities Exchange Act Release Nos. 62297 (June 15, 2010), 75 FR 35111 (June 21, 2010) (SR-NASDAQ-2010-073); 62597 (July 29, 2010), 75 FR 47335 (August 5, 2010) (SR-BATS-2010-020).

<sup>11</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).

<sup>12</sup> 15 U.S.C. 78s(b)(2)(B).

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 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-NYSEMKT-2013-68 and should be submitted on or before September 9, 2013.

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

**Kevin M. O'Neill,**  
Deputy Secretary.

[FR Doc. 2013-20067 Filed 8-16-13; 8:45 am]

BILLING CODE 8011-01-P

## **SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-70166; File No. SR-BATS-2013-035]

### **Self-Regulatory Organizations; BATS Exchange, Inc.; Notice of Designation of a Longer Period for Commission Action on Proposed Rule Change, as Modified by Amendment No. 1 Thereto, To Amend the Competitive Liquidity Provider Program**

August 13, 2013.

On June 17, 2013, BATS Exchange, Inc. ("Exchange" or "BATS") filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act" or "Exchange Act")<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> a proposed rule change to establish the Competitive Liquidity

<sup>13</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>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)(iii) requires the Exchange to give the Commission written notice of the Exchange's 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 requirement.

<sup>10</sup> See BATS Rule 19.6, Interpretations and Policies .05(a); BATS Rule 29.11(h); CBOE

Provider Program for Exchange Traded Products (“ETP CLP Program”), and to amend its existing Competitive Liquidity Provider Program to only apply to corporate issues, on a pilot basis. On June 24, 2013, the Exchange submitted Amendment No. 1 to the proposed rule change.<sup>3</sup> The proposed rule change, as modified by Amendment No. 1, was published for comment in the **Federal Register** on July 5, 2013.<sup>4</sup> The Commission received no comment letters on the proposed rule change.

Section 19(b)(2) of the Act<sup>5</sup> provides that, within 45 days of the publication of notice of the filing of a proposed rule change, or within such longer period up to 90 days as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or as to which the self-regulatory organization consents, the Commission shall either approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether the proposed rule change should be disapproved. The Commission is extending this 45-day time period.

The Commission finds that it is appropriate to designate a longer period within which to take action on the proposed rule change so that it has sufficient time to consider the proposed rule change. The proposed rule change would, among other things, create a one-year pilot program, the ETP CLP Program, for issuers of certain exchange-traded products listed on the Exchange.

Accordingly, the Commission, pursuant to Section 19(b)(2) of the Act,<sup>6</sup> designates October 3, 2013, as the date by which the Commission should either approve or disapprove or institute proceedings to determine whether to disapprove the proposed rule change (File Number SR-BATS-2013-035).

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

**Kevin M. O'Neill,**

*Deputy Secretary.*

[FR Doc. 2013-20064 Filed 8-16-13; 8:45 am]

**BILLING CODE 8011-01-P**

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-70174; File No. SR-Phlx-2013-82]

### Self-Regulatory Organizations; NASDAQ OMX PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Modify Phlx Connectivity Options and Fees

August 13, 2013.

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 August 01, 2013, NASDAQ OMX PHLX LLC (“Phlx” 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 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 modify Phlx connectivity options and fees. The text of the proposed rule change is available at <http://nasdaqomxphlx.cchwallstreet.com/>, at the Exchange’s principal office, 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 aspects of such statements.

##### A. Self-Regulatory Organization’s Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

###### 1. Purpose

The Exchange proposes to modify the Phlx Fee Schedule, Section X(b) regarding connectivity to Phlx. Specifically, the Exchange proposes to establish connectivity and installation

fees for a 10Gb Ultra low latency fiber connection option, and provide a waiver of installation fees for subscriptions through August 31, 2013.

The Exchange currently offers various bandwidth options for connectivity to the Exchange, including a 40Gb fiber connection, a 10Gb fiber connection, a 1Gb fiber connection, and a 1Gb copper connection.<sup>3</sup> In keeping with changes in technology, the Exchange now proposes to provide a second 10Gb fiber connection offering, which uses new ultra-low latency switches.<sup>4</sup> A switch is a type of network hardware that acts as the “gatekeeper” for all of a co-located client’s orders sent to the System<sup>5</sup> at the Exchange’s co-location facility and orders them in sequence for entry into the System for execution. Each of Phlx’s current connection offerings uses different switches between the offerings, but the switches are of uniform type within each offering. As a consequence, all co-located client subscribers to a particular connectivity option receive the same latency in terms of the capabilities of their switches. The 10Gb Ultra offering uses a new ultra-low latency switch, which provides faster processing of orders sent to it in comparison to the current switch in use for co-location connectivity. As a consequence, co-located clients needing only 10Gb of bandwidth, but that seek faster processing of those orders as they enter the Exchange’s co-location facility now have the option to subscribe to a faster and more efficient connection to the Exchange.<sup>6</sup>

The Exchange proposes a monthly subscription fee of \$15,000 for a 10Gb Ultra connection, and a one-time installation fee of \$1,500, which is identical to the 40Gb fiber connectivity option. The Exchange believes that the pricing is reflective of the value the option will provide and the hardware and other infrastructure and maintenance costs to the Exchange associated with offering technology that is at the forefront of the industry. The growth in the size of consolidated and proprietary data feeds has resulted in demand for faster processing of message traffic, and ultra-low latency switches meet this demand by decreasing the time individual orders are processed and market data is transmitted by these new switches. The Exchange’s proposal

<sup>3</sup> Rule 7034(b).

<sup>4</sup> The term “Latency” for these purposes is a measure of the time it takes for an order to enter into a switch and then exit for entry into the System.

<sup>5</sup> As defined by Rule 4751(a).

<sup>6</sup> The Exchange is not offering a low latency option for other bandwidth connections at this time, but may do so in the future.

<sup>3</sup> In Amendment No. 1, the Exchange made technical corrections and clarifying amendments.

<sup>4</sup> Securities Exchange Act Release No. 69889 (June 28, 2013), 78 FR 40531 (“Notice”).

<sup>5</sup> 15 U.S.C. 78s(b)(2).

<sup>6</sup> 15 U.S.C. 78s(b)(2).

<sup>7</sup> 17 CFR 200.30-3(a)(31).

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

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