

reasons stated above, the Commission designates July 11, 2016 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 No. SR-NYSEMKT-2016-42).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>6</sup>

**Brent J. Fields,**

*Secretary.*

[FR Doc. 2016-12773 Filed 5-31-16; 8:45 am]

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-77919; File No. SR-BatsBYX-2016-09]

### Self-Regulatory Organizations; Bats BYX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Rule 11.23, Opening Process

May 25, 2016.

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 May 20, 2016, Bats BYX Exchange, Inc. (the “Exchange” or “BYX”) 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<sup>3</sup> and Rule 19b-4(f)(6)(iii) thereunder,<sup>4</sup> 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 filed a proposal to amend Rule 11.23, Opening Process, to await a two-sided quotation from the listing exchange prior to opening a security for trading during Regular Trading Hours.<sup>5</sup>

The text of the proposed rule change is available at the Exchange’s Web site at [www.batstrading.com](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

The Exchange proposes to amend Rule 11.23, Opening Process, to await a two-sided quotation from the listing exchange prior to opening a security for trading during Regular Trading Hours.

Exchange Rule 11.23 describes the Exchange’s current opening process. Subparagraph (a) to Rule 11.23 states that prior to the beginning of the Regular Trading Hours, Users<sup>6</sup> who wish to participate in the Opening Process may enter orders to buy or sell.<sup>7</sup> Subparagraph (a)(2) to Rule 11.23 provides that, with certain exceptions,<sup>8</sup> all orders with a time-in-force instruction of Regular Hours Only may participate in the Opening Process. Subparagraph (b) to Rule 11.23 states that the Exchange will open by performing the Opening Process in which the System will attempt to match buy and sell orders that are executable at the midpoint of the National Best Bid and Offer (“NBBO”). Subparagraph (c) to Exchange Rule 11.23 sets forth the process by which the System sets the opening price of the Opening Process.

<sup>6</sup> See Exchange Rule 1.5(cc).

<sup>7</sup> Orders cancelled prior to the Opening Process will not participate in the Opening Process.

<sup>8</sup> The following order types and instruction may not participate in the opening process: (i) BYX Post Only Orders, Partial Post Only at Limit Orders, ISOs not modified by Rule 11.23(a)(1) above, and Minimum Quantity Orders. See Exchange Rule 11.23(a)(2). Limit orders with a Reserve Quantity may participate to the full extent of their displayed size and Reserve Quantity. *Id.* Discretionary Orders may participate only up to their ranked price for buy orders or down to their ranked price for sell orders. *Id.* The discretionary range of such orders will not be eligible for participation in the Opening Process. *Id.* All Pegged Orders and Mid-Point Peg Orders, as defined in Rule 11.9(c)(8) and (9), will be eligible for execution in the Opening Process based on their pegged prices. *Id.*

Currently, the System<sup>9</sup> sets the price of the Opening Process at the midpoint of the first NBBO after 9:30:00 a.m. Eastern Time. However, for securities listed on either the New York Stock Exchange, Inc. (“NYSE”) or NYSE MKT LLC (“NYSE MKT”), the System currently sets the price of the Opening Process at the midpoint of the first NBBO subsequent to the first reported trade on the listing exchange after 9:30:00 a.m. Eastern Time. The Exchange may alternatively set the price of the Opening Process for securities listed on either the NYSE or NYSE MKT at the midpoint of the then prevailing NBBO when the first two-sided quotation published by the relevant listing exchange after 9:30:00 a.m. Eastern Time, but before 9:45:00 a.m. Eastern Time if no first trade is reported by the listing exchange within one second of publication of the first two-sided quotation by the listing exchange. The System waits to set the price at the midpoint of the first NBBO as set forth above because securities listed on the NYSE or NYSE MKT may not open at precisely 9:30:00 a.m. Eastern Time.

Pursuant to subparagraph (b) of Rule 11.23, all orders executable at the midpoint of the NBBO will continue to be processed in time sequence, beginning with the order with the oldest time stamp. Matches occur until there are no remaining contra-side orders or there is an imbalance of orders. An imbalance of orders may result in orders that cannot be executed in whole or in part. Any unexecuted orders may then be placed by the System on the BYX Book,<sup>10</sup> cancelled, executed, or routed to away Trading Centers in accordance with the Users’ instructions pursuant to Exchange Rule 11.13(a)(2).

The Exchange proposes to amend subparagraph (c) to Rule 11.23 to now await a two-sided quotation from the listing exchange prior to opening a security for trading during Regular Trading Hours. As amended, subparagraph (c)(2) to Rule 11.23 would state that the System would set the price of the Opening Process at the midpoint of the first NBBO subsequent to the first two-sided quotation published by the listing exchange after 9:30:00 a.m. Eastern Time. For securities listed on either the NYSE or NYSE MKT, subparagraph (c)(1)(i) to Rule 11.23 would state that the System would set the price of the Opening Process at the midpoint of the first NBBO subsequent to the first reported trade and first

<sup>9</sup> See Exchange Rule 1.5(aa).

<sup>10</sup> The term “BYX Book” is defined as “the System’s electronic file of orders.” See Exchange Rule 1.5(e).

<sup>6</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.

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

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

<sup>5</sup> See Exchange Rule 1.5(w).

reported quotation on the listing exchange after 9:30:00 a.m. Eastern Time. Pursuant to subparagraph (c)(1)(i) to Rule 11.23, the Exchange will utilize the existing NBBO to calculate each security's opening price once a trade and two-sided quotation are received from the listing exchange, regardless of the order in which the trade or quotation are received. The Exchange believes the proposed rule change will enable the listing market's quotation to be incorporated into the NBBO, which the Exchange would, in turn, utilize in its calculation of the midpoint of the NBBO. The Exchange believes doing so would result in an opening price that more closely reflect the opening market prices and conditions for that security. Under subparagraph (c)(1)(ii) to Rule 11.23, the Exchange will continue to alternatively set the price of the Opening Process for securities listed on either the NYSE or NYSE MKT at the midpoint of the then prevailing NBBO when the first two-sided quotation published by the relevant listing exchange after 9:30:00 a.m. Eastern Time, but before 9:45:00 a.m. Eastern Time if no first trade is reported by the listing exchange within one second of publication of the first two-sided quotation by the listing exchange.

## 2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act<sup>11</sup> in general, and furthers the objectives of Section 6(b)(5) of the Act<sup>12</sup> in particular, in that it is designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in 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. The Exchange believes the proposed rule change will promote just and equitable principles of trade, removes impediments to, and perfect the mechanism of, a free and open market and a national market system because it enables the System to execute the Opening Process at a price that is objectively established by the market for the security. The proposal would enable the listing market's quotation to be incorporated into the NBBO, which the Exchange would, in turn, utilize in its calculation of the midpoint of the NBBO. The Exchange believes doing so would result in an opening price that more closely reflect the opening market prices and conditions for that security.

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

<sup>12</sup> 15 U.S.C. 78f(b)(5).

Therefore, the Exchange believes the proposed rule change promotes just and equitable principles of trade because it ensures a midpoint price that the Exchange believes would accurately reflect the market for the security.

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

The Exchange does not believe that the proposal will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change will enable the Exchange to incorporate the listing market's quotation into its calculation of the midpoint of the NBBO, resulting in an opening price that would more closely reflect the opening market prices and conditions for that security. Therefore, the Exchange believes the proposed rule change will promote competition by enhancing the quality of the Exchange's opening process.

## 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 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>13</sup> and Rule 19b-4(f)(6) thereunder.<sup>14</sup>

A proposed rule change filed pursuant to Rule 19b-4(f)(6) under the Act<sup>15</sup> normally does not become operative for 30 days after the date of its filing. However, Rule 19b-4(f)(6)(iii)<sup>16</sup> permits the Commission to 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

<sup>13</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>14</sup> 17 CFR 240.19b-4(f)(6). As required under Rule 19b-4(f)(6)(iii), the Exchange provided the Commission with written notice of its intent to file the proposed rule change, along with a brief description and the 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.

<sup>15</sup> 17 CFR 240.19b-4(f)(6).

<sup>16</sup> 17 CFR 240.19b-4(f)(6)(iii).

become operative immediately upon filing. The Exchange states that waiver of the 30-day operative delay would allow market participants to immediately realize the benefits of what may be more accurate opening prices. Based on the foregoing, the Commission believes the waiver of the operative delay is consistent with the protection of investors and the public interest. Therefore, the Commission hereby waives the operative delay and designates the proposal operative upon filing.<sup>17</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 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 No. SR-BatsBYX-2016-09 on the subject line.

### Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549-1090.

All submissions should refer to File No. SR-BatsBYX-2016-09. 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

<sup>17</sup> For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

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 No. SR-BatsBYX-2016-09, and should be submitted on or before June 22, 2016.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>18</sup>

**Brent J. Fields,**  
Secretary.

[FR Doc. 2016-12781 Filed 5-31-16; 8:45 am]

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## SMALL BUSINESS ADMINISTRATION

### Reporting and Recordkeeping Requirements Under OMB Review

**AGENCY:** Small Business Administration.  
**ACTION:** 30-Day notice.

**SUMMARY:** The Small Business Administration (SBA) is publishing this notice to comply with requirements of the Paperwork Reduction Act (PRA) (44 U.S.C. Chapter 35), which requires agencies to submit proposed reporting and recordkeeping requirements to OMB for review and approval, and to publish a notice in the **Federal Register** notifying the public that the agency has made such a submission. This notice also allows an additional 30 days for public comments.

**DATES:** Submit comments on or before July 1, 2016.

**ADDRESSES:** Comments should refer to the information collection by name and/or OMB Control Number and should be sent to: *Agency Clearance Officer*, Curtis Rich, Small Business Administration, 409 3rd Street SW., 5th Floor, Washington, DC 20416; and *SBA Desk Officer*, Office of Information and

Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

**FOR FURTHER INFORMATION CONTACT:** Curtis Rich, Agency Clearance Officer, (202) 205-7030 [curtis.rich@sba.gov](mailto:curtis.rich@sba.gov).

*Copies:* A copy of the Form OMB 83-1, supporting statement, and other documents submitted to OMB for review may be obtained from the Agency Clearance Officer.

**SUPPLEMENTARY INFORMATION:** The Small Business Regulatory Enforcement Fairness Act of 1996, 15 U.S.C. Sec. 657(b)(2)(B), requires the SBA National Ombudsman to establish a means for SBA to receive comments on regulatory and compliance actions from small entities regarding their disagreements with a Federal Agency action. The Ombudsman uses it to obtain the agency's response, encourage a fresh look by the agency at a high level, and build a more small business-friendly regulatory environment.

*Solicitation of Public Comments:*

*Title:* Federal Agency Comment Form.

*Description of Respondents:* Small Entities.

*Form Number:* 1993.

*Estimated Annual Responses:* 340.

*Estimated Annual Hour Burden:* 263.

**Curtis B. Rich,**

Management Analyst.

[FR Doc. 2016-12741 Filed 5-31-16; 8:45 am]

BILLING CODE 8025-01-P

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## DEPARTMENT OF TRANSPORTATION

### Maritime Administration

#### U.S. Merchant Marine Academy Board of Visitors Meeting

**AGENCY:** Maritime Administration.

**ACTION:** Meeting notice.

**SUMMARY:** The U.S. Department of Transportation, Maritime Administration (MARAD) announces that the following U.S. Merchant Marine Academy ("Academy") Board of Visitors (BOV) meeting will take place:

1. *Date:* June 14, 2016.
2. *Time:* 2:00 p.m.
3. *Location:* Capital Visitors Center, Washington, DC Room to be determined.

4. *Purpose of the Meeting:* The purpose of this meeting is to brief BOV members on the Academy Advisory Board's annual report to the Secretary of Transportation and the status of reaccreditation.

5. *Public Access to the Meeting:* This meeting is open to the public. Seating is

on a first-come basis. Members of the public wishing to attend the meeting will need to show photo identification in order to gain access to the meeting location.

**FOR FURTHER INFORMATION CONTACT:** The BOV's Designated Federal Officer or Point of Contact Brian Blower; 202 366-2765; [Brian.Blower@dot.gov](mailto:Brian.Blower@dot.gov).

**SUPPLEMENTARY INFORMATION:** Any member of the public is permitted to file a written statement with the Academy BOV. Written statements should be sent to the Designated Federal Officer at: Brian Blower; 1200 New Jersey Ave. SE., W28-313, Washington, DC 20590 or via email at [Brian.Blower@Dot.gov](mailto:Brian.Blower@Dot.gov). (Please contact the Designated Federal Officer for information on submitting comments via fax.) Written statements must be received no later than three working days prior to the next meeting in order to provide time for member consideration. By rule, no member of the public attending open meetings will be allowed to present questions from the floor or speak to any issue under consideration by the BOV.

**Authority:** 46 U.S.C. 51312; 5 U.S.C. app. 552b; 41 CFR 102-3.140 through 102-3.165.

By Order of the Maritime Administrator.

Dated: May 26, 2016.

**T. Mitchell Hudson, Jr.,**

Secretary, Maritime Administration.

[FR Doc. 2016-12833 Filed 5-31-16; 8:45 am]

BILLING CODE 4910-81-P

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## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

[Docket No. NHTSA-2016-0063]

#### Notice of Buy America Waiver

**AGENCY:** National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).  
**ACTION:** Notice of Buy America Waiver.

**SUMMARY:** This notice provides NHTSA's finding with respect to a request to waive the requirements of Buy America from the New York Governor's Traffic Safety Committee (GTSC). NHTSA finds that a non-availability waiver of the Buy America requirement is appropriate for New York's purchase of a liquid chromatography-tandem mass spectrometry instrument using Federal highway traffic safety grant funds because that product is not produced in the United States.

**DATES:** The effective date of this waiver is June 16, 2016. Written comments

<sup>18</sup> 17 CFR 200.30-3(a)(12).