

baseline. The MSRB also considered other economic impacts of the proposed rule change and has addressed any comments relevant to these impacts in other sections of this document.

The MSRB does not believe that the proposed rule change will impose any additional burdens on competition, relative to the baseline, that are not necessary or appropriate in furtherance of the purposes of the Exchange Act.

While the MSRB believes that the proposed rule changes represent a reduction in burden compared to the existing Rule G-10, the MSRB recognizes that the recordkeeping requirements associated with the proposed rule change may impose some initial costs on dealers that currently comply with FINRA Rule 4530 but need to adopt a new set of complaint codes. The MSRB also recognizes that dealers that are not currently FINRA members may experience a greater burden as the proposed recordkeeping requirements may constitute a new activity that they have not previously performed. The MSRB does not believe, however, that the potentially greater burden on dealers that are not FINRA members is significant enough to constitute a burden on competition.

The MSRB recognizes that the proposal represents a new requirement on municipal advisors and that the recordkeeping requirements in particular may disproportionately impact small municipal advisors. However, the MSRB does not believe that the overall burden of the proposed rule change is significant or that the impact on small municipal advisors will materially alter the competitive landscape. To the extent the proposed rule changes do lead some firms to exit the market or consolidate, based on the SEC's analysis in its order adopting the municipal advisor rules, the MSRB believes that the market for municipal advisory activities is likely to remain competitive.<sup>38</sup>

### *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 on the proposed rule change.

### **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 of up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization 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 email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-MSRB-2016-15 on the subject line.

#### *Paper Comments*

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

All submissions should refer to File Number SR-MSRB-2016-15. 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 the filing also will be available for inspection and copying at the principal office of the MSRB. 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-MSRB-2016-15 and should be submitted on or before December 9, 2016.

For the Commission, pursuant to delegated authority.<sup>39</sup>

**Brent J. Fields,**  
*Secretary.*

[FR Doc. 2016-27738 Filed 11-17-16; 8:45 am]

**BILLING CODE 8011-01-P**

## **SECURITIES AND EXCHANGE COMMISSION**

**[Release No. 34-79307; File No. SR-BatsBYX-2016-34]**

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

November 14, 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 November 7, 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, 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 Substance of the Proposed Rule Change**

The Exchange filed a proposal 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).

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

<sup>39</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>3</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

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

<sup>5</sup> The term "Member" is defined as "any registered broker or dealer that has been admitted to membership in the Exchange." See Exchange Rule 1.5(n).

<sup>38</sup> Securities Exchange Act Release No. 70462 (Sept. 20, 2013), 78 FR 67468, 67608 (Nov. 12, 2013).

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 increase the fee for orders yielding fee code Z, which results from an order routed to a dark liquidity venue (except through the SLIM<sup>6</sup> routing strategy), from \$0.00200 to \$0.00220 per share for securities priced at or above \$1.00 and for securities priced below \$1.00. The Exchange proposes to implement this amendment to its Fee Schedule immediately.<sup>7</sup>

#### 2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the objectives of Section 6 of the Act,<sup>8</sup> in general, and furthers the objectives of Section 6(b)(4),<sup>9</sup> in particular, as it is designed to provide for the equitable allocation of reasonable dues, fees and other charges among its Members and other persons using its facilities. The Exchange believes that its proposal to increase the fee for orders routed to a dark liquidity venue that yield fee code Z represents an equitable allocation of reasonable dues, fees, and other charges among Members and other person using its facilities in that they are designed in part to cover the costs of routing. While Members that route orders to a dark liquidity venue will be paying higher fees due to the proposal, the increased

revenue received by the Exchange will be used to fund the Exchange generally, including the cost of maintaining and improving the technology used to handle and route orders from the Exchange as well as programs that the Exchange believes help to attract additional liquidity and thus improve the depth of liquidity available on the Exchange. Accordingly, although the cost of routing is increasing, the Exchange believes that the increase is a modest increase and that higher routing fees will benefit Members in other ways. Furthermore, the Exchange notes that routing through the Exchange is voluntary. Lastly the Exchange also believes that the proposed amendment is non-discriminatory because it applies uniformly to all Members.

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

This proposed rule change does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange does not believe that this change represents a significant departure from previous pricing offered by the Exchange or from pricing offered by the Exchange's competitors. Additionally, Members may opt to disfavor the Exchange's pricing if they believe that alternatives offer them better value. Accordingly, the Exchange does not believe that the proposed changes will impair the ability of Members or competing venues to maintain their competitive standing in the financial markets. The Exchange believes that its proposal would not burden intramarket competition because the proposed rate would apply uniformly to all Members.

### 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<sup>10</sup> and paragraph (f) of Rule 19b-4 thereunder.<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.

## 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-BatsBYX-2016-34 on the subject line.

### Paper Comments

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

All submissions should refer to File Number SR-BatsBYX-2016-34. 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-BatsBYX-2016-34, and should be submitted on or before December 9, 2016.

<sup>6</sup> See Exchange Rule 11.13(b)(3).

<sup>7</sup> The Exchange initially submitted the proposed rule change on October 28, 2016. (SR-BatsBYX-2016-30). On November 3, 2016, the Exchange withdrew SR-BatsBYX-2016-30 and submitted SR-BatsBYX-2016-31. On November 7, 2016, the Exchange withdrew SR-BatsBYX-2016-31 and submitted this filing.

<sup>8</sup> 15 U.S.C. 78f.

<sup>9</sup> 15 U.S.C. 78f(b)(4).

<sup>10</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>11</sup> 17 CFR 240.19b-4(f).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>12</sup>

**Brent J. Fields,**  
Secretary.

[FR Doc. 2016-27745 Filed 11-17-16; 8:45 am]

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-79296; File No. SR-FINRA-2016-029]

### Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Order Approving Rule Change Amending the Code of Arbitration Procedure for Customer Disputes and the Code of Arbitration Procedure for Industry Disputes To Require All Parties Other Than Pro Se Customers To File and Serve Pleadings and Documents Through the FINRA Office of Dispute Resolution's Party Portal and To Permit Mediation Parties To Use the Portal

November 14, 2016.

#### I. Introduction

On July 27, 2016, Financial Industry Regulatory Authority, Inc. ("FINRA") filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Exchange Act")<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> a proposed rule change to amend the Code of Arbitration Procedure for Customer Disputes ("Customer Code") and the Code of Arbitration Procedure for Industry Disputes ("Industry Code") and, together with the Customer Code, "Codes"), to require all parties, except customers who are not represented by an attorney or other person ("pro se customers"), to use the FINRA Office of Dispute Resolution's Party Portal ("Party Portal") to file initial statements of claim and to file and serve pleadings and other documents on FINRA or any other party. Under the proposed rule change, FINRA would require parties to use the Party Portal to file and serve correspondence relating to discovery requests, but would not permit parties to file documents produced in response to discovery requests through the Party Portal. FINRA is also proposing to amend the Code of Mediation Procedure ("Mediation Code") to permit mediation parties to agree to use the Party Portal to submit and retrieve all documents and other communications. In addition,

FINRA is revising other provisions in the Codes to conform to existing practice.

The proposed rule change was published for comment in the **Federal Register** on August 17, 2016.<sup>3</sup> The public comment period closed on September 7, 2016. On September 26, 2016, FINRA extended the time period in which the Commission must approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether to approve or disapprove the proposed rule change to November 15, 2016.<sup>4</sup> The Commission received five comment letters in response to the Notice.<sup>5</sup> On October 28, 2016, FINRA responded to the comment letters received in response to the Notice.<sup>6</sup> This order grants approval of the proposed rule change.

#### II. Description of the Proposed Rule Change<sup>7</sup>

##### Background

In 2004, FINRA implemented an online, web-based arbitration claim notification and filing system that allowed a claimant<sup>8</sup> or claimant's counsel to file voluntarily an arbitration

claim through that system ("online claim filing system").<sup>9</sup> Currently, the Codes allow a claimant to file a claim<sup>10</sup> either in hard copy or by using the online claim filing system.<sup>11</sup> The online claim filing system allows a claimant to complete forms, submit documents, and pay filing fees online.

In June 2013, FINRA introduced a separate secure, online service called the Dispute Resolution Portal ("DR Portal") to facilitate interactions among parties, arbitrators, mediators, and FINRA staff on arbitration case-related matters. As further discussed below, the DR Portal includes both a Party Portal and an Arbitrator and Mediator Portal. The Party Portal uses an invitation/registration process that provides a way to send and receive arbitration and mediation case documents. For example, once a party notifies FINRA of the name of the person who should be given access to the arbitration or mediation case file (typically the party's representative), FINRA sends an email to the named person with an invitation to register on the Party Portal via a personalized web address link that provides complete access to the specified case. Once registered, the representative can provide other individuals (such as legal assistants and co-counsel) with access to appropriate cases on the Party Portal.

FINRA initially opened the Party Portal to a small number of firms to gain experience with the technology and to incorporate user feedback. Over time, FINRA expanded access to the Party Portal, and as of July 20, 2015, FINRA allowed all parties to use the Party Portal voluntarily in all arbitration and mediation cases filed as of that date. Through the Party Portal, parties can, among other things, receive documents from and send documents to FINRA, receive service<sup>12</sup> of a claim, submit an answer to a claim, submit additional case documents, view the status of a case, and select arbitrators.

FINRA has periodically upgraded the Party Portal to allow parties to, among other things, schedule hearings, receive automated messages when new documents are posted, see an indication of received documents not yet viewed, and send documents to other Party Portal case participants. FINRA believes that using the online claim filing system improves the forum by hastening the

<sup>3</sup> See Exchange Act Release No. 78549 (Aug. 11, 2016), 81 FR 54858 (Aug. 17, 2016) (File No. SR-FINRA-2016-029) ("Notice").

<sup>4</sup> See Letter from Margo A. Hassan, Associate Chief Counsel, FINRA, to Lourdes Gonzalez, Assistant Chief Counsel—Sales Practices, Division of Trading and Markets, Securities and Exchange Commission, dated September 26, 2016.

<sup>5</sup> See Letters from Steven B. Caruso, Maddox Hargett & Caruso, P.C., dated August 12, 2016 ("Caruso Letter"); David Lagziel, CEO, Conflictteam, dated August 30, 2016 ("Conflictteam Letter"); David T. Bellaire, Executive Vice President and General Counsel, Financial Services Institute ("FSI"), dated September 7, 2016 ("FSI Letter"); Nicole Iannarone, Assistant Clinical Professor, and Michael F. Williford, Student Intern, Investor Advocacy Clinic ("IAC"), Georgia State University College of Law, dated September 7, 2016 ("IAC Letter"); and Hugh Berkson, President, Public Investors Arbitration Bar Association ("PIABA"), dated September 7, 2016 ("PIABA Letter"). The comment letters are available on FINRA's Web site at <http://www.finra.org>, at the principal office of FINRA, at the Commission's Web site at <https://www.sec.gov/comments/sr-finra-2016-029/finra2016029.shtml>, and at the Commission's Public Reference Room.

<sup>6</sup> See Letter from Margo A. Hassan, Associate Chief Counsel, FINRA, to Brent J. Fields, Secretary, Securities and Exchange Commission, dated October 28, 2016 ("FINRA Letter"). The FINRA Letter is available on FINRA's Web site at <http://www.finra.org>, at the principal office of FINRA, at the Commission's Web site at <https://www.sec.gov/comments/sr-finra-2016-029/finra2016029.shtml>, and at the Commission's Public Reference Room.

<sup>7</sup> The subsequent description of the proposed rule change is substantially excerpted from FINRA's description in the Notice. See Notice, 81 FR 54858-66.

<sup>8</sup> See Rules 12100(e) and 13100(e). The term "claimant" means a party that files the statement of claim that initiates an arbitration proceeding.

<sup>9</sup> See Notice to Members 04-56.

<sup>10</sup> See Rules 12302(a) and 13302(a).

<sup>11</sup> See FINRA, Arbitration Online Claim Filing, available at <http://www.finra.org/arbitration-and-mediation/online-claim-filing>.

<sup>12</sup> Service is the process of delivering a pleading (e.g., the statement of claim or answer) or other documents to the opposing party.

<sup>12</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.