

securities; and Part IIB, which must be filed by specialized broker-dealers registered with the Commission as OTC derivatives dealers;<sup>2</sup> (3) supplemental schedules, which must be filed annually; and (4) a facing page, which must be filed with the annual audited report of financial statements. Under the rule, a broker or dealer that computes certain of its capital charges in accordance with Appendix E to Exchange Act Rule 15c3-1 must file additional monthly, quarterly, and annual reports with the Commission.

The Commission estimates that the total hours burden under Rule 17a-5 is approximately 356,020 hours per year when annualized, and the total cost burden under Rule 17a-5 is approximately \$45,133,148 per year.

Written comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information under the PRA unless it displays a currently valid OMB control number.

Please direct your written comments to: Pamela Dyson, Director/Chief Information Officer, Securities and Exchange Commission, c/o Remi Pavlik-Simon, 100 F Street NE., Washington, DC 20549, or send an email to [PRA\\_Mailbox@sec.gov](mailto:PRA_Mailbox@sec.gov).

Dated: March 14, 2017.

**Eduardo A. Aleman,**  
*Assistant Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-80220; File No. SR-BatsBYX-2017-05]

### Self-Regulatory Organizations; Bats BYX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Exchange Rule 11.27 To Modify the Date of Appendix B Web Site Data Publication Pursuant to the Regulation NMS Plan To Implement a Tick Size Pilot Program

March 13, 2017.

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 February 28, 2017, 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 11.27 to modify the date of Appendix B Web site data publication pursuant to the Regulation NMS Plan to Implement a Tick Size Pilot Program ("Plan").

The text of the proposed rule change is available at the Exchange's Web site at [www.bats.com](http://www.bats.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

Rule 11.27(b) (Compliance with Data Collection Requirements)<sup>5</sup> implements the data collection and Web site publication requirements of the Plan.<sup>6</sup> Rule 11.27(b).08 provides, among other things, that the requirement that the Exchange or Designated Examining Authority ("DEA") make certain data publicly available on their Web site pursuant to Appendix B and C to the Plan shall commence at the beginning of the Pilot Period,<sup>7</sup> and that the Exchange or DEA shall make data for the Pre-Pilot Period publicly available on their Web site pursuant to Appendix B and C to the Plan by February 28, 2017.<sup>8</sup>

The Exchange is proposing amendments to Rule 11.27(b).08 to delay the date by which Pre-Pilot and Pilot Appendix B data is to be made publicly available on the Exchange or DEA's Web site from February 28, 2017, until April 28, 2017.<sup>9</sup> Appendix C data

<sup>5</sup> See Exchange Rule 11.27(b). See also Securities Exchange Act Release Nos. 77418 (March 22, 2016), 81 FR 17213 (March 28, 2016); and 78795 (September 9, 2016), 81 FR 63508 (September 15, 2016).

<sup>6</sup> The Participants filed the Plan to comply with an order issued by the Commission on June 24, 2014. See Letter from Brendon J. Weiss, Vice President, Intercontinental Exchange, Inc., to Secretary, Commission, dated August 25, 2014 ("SRO Tick Size Plan Proposal"). See Securities Exchange Act Release No. 72460 (June 24, 2014), 79 FR 36840 (June 30, 2014); see also Securities Exchange Act Release No. 74892 (May 6, 2015), 80 FR 27513 (May 13, 2015).

<sup>7</sup> Unless otherwise defined herein, capitalized terms have the meaning ascribed to them in Rule 11.27.

<sup>8</sup> On November 30, 2016, the SEC granted exemptive relief to the Participants, and the Exchange filed proposed rule changes to, among other things, delay the publication of Web site data pursuant to Appendices B and C to the Plan until February 28, 2017, and to delay the ongoing Web site publication by ninety days such that data would be published within 120 calendar days following the end of the month. See Letter from David S. Shillman, Associate Director, Division of Trading and Markets, Commission, to Marcia E. Asquith, Senior Vice President and Corporate Secretary, FINRA dated November 30, 2016; see also Securities Exchange Act Release No. 79534 (December 13, 2016), 81 FR 91965 (December 19, 2016) (Notice of Filing and Immediate Effectiveness of File No. SR-BatsBYX-2016-37).

<sup>9</sup> In addition, the Exchange is proposing an amendment to Rule 11.27(a)(6)(B) to clarify that no member, irrespective of whether that member operates a trading center, may execute orders in any Pilot Security in Test Group Three in price increments other than \$0.05, unless an exception

Continued

<sup>2</sup> Part IIB of Form X-17A-5 must be filed by OTC derivatives dealers under Exchange Act Rule 17a-12 and is subject to a separate PRA filing (OMB control number 3235-0498).

<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).

for the Pre-Pilot Period through the month of January 2017, will be published on the Exchange or DEA's Web site on February 28, 2017, and, thereafter, on the original 30-day schedule.

In the SRO Tick Size Plan Proposal, the Participants stated that the public data will be made available for free "on a disaggregated basis by trading center" on the Web sites of the Participants and the Designated Examining Authorities.<sup>10</sup> However, market participants have expressed confidentiality concerns regarding this approach for over-the-counter ("OTC") data.<sup>11</sup> Thus, the Exchange is filing the instant proposed rule change to provide additional time to assess a means of addressing the confidentiality concerns raised in connection with the publication of Appendix B data related to OTC activity in furtherance of the objectives of the Plan.<sup>12</sup> Pursuant to this amendment, Appendix B data publication will be delayed until April 28, 2017. The Participants anticipate filing an additional proposed rule change in the near future to address the Appendix B data publication.

## 2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act<sup>13</sup> in general, and furthers the objectives of Section 6(b)(5) of the Act<sup>14</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 Plan is designed to allow the Commission, market participants, and the public to study and assess the impact of increment conventions on the

applies. This proposed amendment makes the rule consistent with the Plan and conforms subparagraph (a)(6)(B) with subparagraph (a)(5)(B).

<sup>10</sup> See Securities Exchange Act Release No. 73511 (November 3, 2014), 79 FR 66423 (November 7, 2014) (Notice of Filing of Proposed National Market System Plan to Implement a Tick Size Pilot Program on a One-Year Pilot Basis, File No. 4-657) ("Tick Size Plan Proposal").

<sup>11</sup> See letters from Adam C. Cooper, Senior Managing Director and Chief Legal Officer, Citadel Securities, to Brent J. Fields, Secretary, Commission, dated December 21, 2016 ("Citadel letter"); and William Hebert, Managing Director, Financial Information Forum, to Robert W. Errett, Deputy Secretary, Commission, dated December 21, 2016 ("FIF letter").

<sup>12</sup> FINRA, on behalf of the Exchange, also is submitting an exemptive request with the SEC in connection with the instant filing.

<sup>13</sup> 15 U.S.C. 78f(b).

<sup>14</sup> 15 U.S.C. 78f(b)(5).

liquidity and trading of the common stock of small-capitalization companies. The Exchange believes that this proposal is consistent with the Act because it is in furtherance of the objectives of Section VII(A) of the Plan in that it is designed to provide the Exchange with additional time to assess a means of addressing the confidentiality concerns raised in connection with the publication of Appendix B data, to comply with the Plan's requirements that the data made publicly available will not identify the trading center that generated the data.

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

The Exchange does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange notes that the proposed rule change implements the provisions of the Plan.

### 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.

## III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing 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>15</sup> and Rule 19b-4(f)(6) thereunder.<sup>16</sup>

A proposed rule change filed under Rule 19b-4(f)(6) normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b-4(f)(6)(iii), the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has filed the proposed rule change for immediate effectiveness and has requested that the Commission waive the requirement that the proposed rule change not become operative for 30 days after the date of the filing so that it may become operative on February 28, 2017.

The Exchange notes that the proposed rule change is intended to address

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

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

confidentiality concerns raised in connection with the publication of OTC Appendix B data by permitting the Exchange to delay Web site publication of its Appendix B data from February 28, 2017 to April 28, 2017.<sup>17</sup> The Exchange notes that the delay would provide additional time to assess a means of addressing the confidentiality concerns. The Exchange notes that it expects Participants to file proposed rule changes related to publishing Appendix B data.

The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because it will allow the Exchange to delay publication of its Appendix B data until April 28, 2017. As noted above, commenters continue to raise concerns about the publication of OTC Appendix B data.<sup>18</sup> Delaying publication of Exchange's Appendix B data<sup>19</sup> will prevent the publication of partial (*i.e.*, Exchange-only) Appendix B data required under the Plan. Therefore, the Commission hereby waives the 30-day operative delay and designates the proposed rule change to be operative on February 28, 2017.<sup>20</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,

<sup>17</sup> See *supra* note 11. The Commission notes that FINRA has submitted a proposed rule change to delay the publication of OTC Appendix B data. See SR-FINRA-2017-005.

<sup>18</sup> The Commission notes that FINRA has filed a proposed rule change that is intended to mitigate confidentiality concerns raised by commenters regarding the publication of OTC Appendix B data. See SR-FINRA-2017-006.

<sup>19</sup> The Commission notes that other Participants have proposed to delay the publication of their Appendix B data until April 28, 2017. See SR-BatsBZX-2017-15; SR-BatsEDGA-2017-05; SR-BatsEDGX-2017-13; SR-BX-2017-016; SR-CHX-2017-05; SR-FINRA-2017-005; SR-IEX-2017-07; SR-NASDAQ-2017-024; SR-Phlx-2017-22; SR-NYSE-2017-10; SR-NYSEArca-2017-19; SR-NYSEMKT-2017-11.

<sup>20</sup> For purposes only of waiving the operative delay for this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

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](mailto:rule-comments@sec.gov). Please include File No. SR-BatsBYX-2017-05 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-2017-05. 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 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-BatsBYX-2017-05 and should be submitted on or before April 7, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>21</sup>

**Eduardo A. Aleman,**

*Assistant Secretary.*

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**BILLING CODE 8011-01-P**

**SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-80224; File No. SR-BX-2017-017]

**Self-Regulatory Organizations; NASDAQ BX, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the Exchange's Transaction Fees at Rule 7018**

March 13, 2017.

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 March 1, 2017, NASDAQ BX, Inc. ("BX" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II, and III, 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 amend the Exchange's transaction fees at Rule 7018 to add a new charge for providing liquidity on the BX equity market.

The text of the proposed rule change is available on the Exchange's Web site at <http://nasdaqbx.cchwallstreet.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 aspects 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 amend the Exchange's

transaction fees at Rule 7018 to add a reduced fee for providing liquidity on the BX equity market if certain volume requirements are met. The Exchange operates on the "taker-maker" model, whereby it pays rebates to members that take liquidity and charges fees to members that provide liquidity. Currently, a member that adds liquidity through a displayed order and that does not qualify for one of the current reduced fees would be assessed a charge of \$0.0020 per share executed. With this proposal, the Exchange proposes to charge \$0.0018 per share executed for a displayed order entered by a member that adds liquidity equal to or exceeding the member's Growth Target. The Growth Target is defined as the liquidity the member added in January 2017 as a percent of total Consolidated Volume plus 0.04% of total Consolidated Volume.<sup>3</sup> As such, if the member added liquidity that represented 0.10% of total Consolidated Volume in January, the member's Growth Target would be 0.14% of total Consolidated Volume. A member that added 0.14% of total Consolidated Volume in March would therefore qualify for the reduced fee in March.<sup>4</sup>

The purpose of this reduced fee is to incentivize members to add additional liquidity to the Exchange, thereby increasing the market quality of the Exchange and benefitting all participants.

**2. Statutory Basis**

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,<sup>5</sup> in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act,<sup>6</sup> in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility, and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange believes the proposed fee of \$0.0018 per share executed is reasonable. The charge for adding

<sup>3</sup> Rule 7018(a) defines "Consolidated Volume" as the total consolidated volume reported to all consolidated transaction reporting plans by all exchanges and trade reporting facilities during a month in equity securities, excluding executed orders with a size of less than one round lot. For purposes of calculating Consolidated Volume and the extent of a member's trading activity, the date of the annual reconstitution of the Russell Investments Indexes shall be excluded from both total Consolidated Volume and the member's trading activity.

<sup>4</sup> If a member was not active in the month of January, its Growth Target would be 0.04% for purposes of determining the eligibility for this fee.

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

<sup>6</sup> 15 U.S.C. 78f(b)(4) and (5).

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

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

<sup>21</sup> 17 CFR 200.30-3(a)(12).