

EQUITY EXECUTION VENUE RANK AND TIER—Continued

Market participant	Market share of share volume <sup>45</sup> (%)	Rank	Tier
FNC AG STOCK, LLC .....	0.0000225	51	2
AX TRADING, LLC .....	0.0000026	52	2
PRO SECURITIES ATS .....	0.0000002	53	2

OPTIONS EXECUTION VENUE RANK AND TIER

Market participant	Market share of share volume (Options contracts) <sup>46</sup> (%)	Rank	Tier
NASDAQ PHLX LLC .....	16.68	1	1
Chicago Board Options Exchange, Incorporated .....	16.08	2	1
Bats BZX Options Exchange, Inc. ....	11.53	3	1
Nasdaq ISE, LLC .....	10.63	4	1
NYSE Arca, Inc. ....	9.52	5	1
The NASDAQ Options Market LLC .....	9.01	6	1
NYSE MKT LLC .....	8.01	7	1
Miami International Securities Exchange, LLC .....	5.84	8	1
Nasdaq GEMX, LLC .....	4.16	9	1
Chicago Board Options Exchange, Incorporated 2 .....	3.33	10	1
BOX Options Exchange LLC .....	3.02	11	1
Bats EDGX Options Exchange, Inc. ....	1.31	12	2
NASDAQ BX, Inc. ....	0.67	13	2
Nasdaq MRX, LLC .....	0.21	14	2
MIAX PEARL, LLC .....	N/A <sup>47</sup>	15	2

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**SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-80927; File No. SR-BatsBZX-2017-40]

**Self-Regulatory Organizations; Bats BZX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Rule 21.5 of Bats BZX Exchange, Inc. To Extend Through December 31, 2017, the Penny Pilot Program in Options Classes in Certain Issues**

June 14, 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 June 13, 2017, Bats BZX Exchange, Inc. (the “Exchange” or “BZX”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule

<sup>46</sup> Based on November 2016 through January 2017 volume sourced from Bats.

<sup>47</sup> No market statistics as of January 2017. Launched trading operations on February 6, 2017.

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

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

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 extend through December 31, 2017, the Penny Pilot Program (“Penny Pilot”) in options classes in certain issues (“Pilot Program”) previously approved by the Commission.<sup>5</sup>

<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> The rules of BZX Options, including rules applicable to BZX Options’ participation in the Penny Pilot, were approved on January 26, 2010. See Securities Exchange Act Release No. 61419 (January 26, 2010), 75 FR 5157 (February 1, 2010) (SR-BATS-2009-031). BZX Options commenced operations on February 26, 2010. The Penny Pilot was most recently extended for BZX Options through June 30, 2017. See Securities Exchange Act Release No. 34-79523 (December 9, 2016), 81 FR 90895 (December 16, 2016) (SR-BatsBZX-2016-84).

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 Statutory Basis for, the Proposed Rule Change*

**1. Purpose**

The purpose of this filing is to extend the Penny Pilot, which was previously approved by the Commission, through December 31, 2017, and to provide revised dates for adding replacement

issues to the Pilot Program. The Exchange proposes that any Pilot Program issues that have been delisted may be replaced on the second trading day following July 1, 2017. The replacement issues will be selected based on trading activity for the most recent six month period excluding the month immediately preceding the replacement (*i.e.*, beginning December 1, 2016, and ending May 31, 2017).

The Exchange represents that the Exchange has the necessary system capacity to continue to support operation of the Penny Pilot. The Exchange believes the benefits to public customers and other market participants who will be able to express their true prices to buy and sell options have been demonstrated to outweigh the increase in quote traffic.

## 2. Statutory Basis

The Exchange believes that its proposal 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(b) of the Act.<sup>6</sup> In particular, the proposal is consistent with Section 6(b)(5) of the Act<sup>7</sup> because it would promote just and equitable principles of trade, remove impediments to, and perfect the mechanism of, a free and open market and a national market system. The Exchange believes that the Pilot Program promotes just and equitable principles of trade by enabling public customers and other market participants to express their true prices to buy and sell options. Accordingly, the Exchange believes that the proposal is consistent with the Act because it will allow the Exchange to extend the Pilot Program prior to its expiration on June 30, 2017. The Exchange notes that this proposal does not propose any new policies or provisions that are unique or unproven, but instead relates to the continuation of an existing program that operates on a pilot basis.

### (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 that is not necessary or appropriate in furtherance of the purposes of the Act. In this regard, the Exchange notes that the rule change is being proposed in order to continue the Pilot Program, which is a competitive response to analogous programs offered by other options

exchanges. The Exchange believes this proposed rule change is necessary to permit fair competition among the options exchanges.

### (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

Because the foregoing proposed rule change does not: (A) Significantly affect the protection of investors or the public interest; (B) impose any significant burden on competition; and (C) by its terms, 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 paragraph (f)(6) of Rule 19b-4 thereunder,<sup>9</sup> the Exchange has designated this rule filing as non-controversial. The Exchange has given the Commission written notice of its 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.

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.<sup>10</sup> However, pursuant to Rule 19b-4(f)(6)(iii),<sup>11</sup> the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. Without a waiver of the 30-day operative delay, CBOE's Pilot Program will expire before the extension of the Pilot Program is operative. The Commission believes that waiving the 30-day operative delay for the instant filing is consistent with the protection of investors and the public interest because doing so will allow the Pilot Program to continue without interruption in a manner that is consistent with the Commission's prior approval of the extension and expansion of the Pilot Program and will allow the Exchange and the Commission

additional time to analyze the impact of the Pilot Program. Accordingly, the Commission designates the proposed rule change as operative upon filing with the Commission.<sup>12</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: (1) Necessary or appropriate in the public interest; (2) for the protection of investors; or (3) 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 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-BatsBZX-2017-40 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-BatsBZX-2017-40. 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

<sup>8</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>9</sup> 17 CFR 240.19b-4.

<sup>10</sup> 17 CFR 240.19b-4(f)(6).

<sup>11</sup> 17 CFR 240.19b-4(f)(6)(iii).

<sup>12</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).

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

<sup>7</sup> 15 U.S.C. 78f(b)(5).

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-BatsBZX-2017-40 and should be submitted on or before July 11, 2017.

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

**Eduardo A. Aleman,**

*Assistant Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-80933; File No. SR-NYSE-2017-30]

### Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing of Proposed Rule Change To Amend Section 102.01B of the NYSE Listed Company Manual To Provide for the Listing of Companies That List Without a Prior Exchange Act Registration and That Are Not Listing in Connection With an Underwritten Initial Public Offering and Related Changes to Rules 15, 104, and 123D

June 15, 2017.

Pursuant to Section 19(b)(1)<sup>1</sup> of the Securities Exchange Act of 1934 (the “Act”)<sup>2</sup> and Rule 19b-4 thereunder,<sup>3</sup> notice is hereby given that, on June 13, 2017, New York Stock Exchange LLC (“NYSE” or the “Exchange”) filed with the Securities and Exchange Commission (the “Commission”) the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. 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: (i) Footnote (E) to Section 102.01B of the

NYSE Listed Company Manual (the “Manual”) to modify the provisions relating to the qualification of companies listing without a prior Exchange Act registration; (ii) Rule 15 to add a Reference Price for when a security is listed under Footnote (E) to Section 102.01B; (iii) Rule 104 to specify DMM requirements when a security is listed under Footnote (E) to Section 102.01B and there has been no trading in the private market for such security; and (iv) Rule 123D to specify that the Exchange may declare a regulatory halt in a security that is the subject of an initial public offering (“IPO”) or initial listing on the Exchange. The proposed rule change is available on the Exchange’s Web site at [www.nyse.com](http://www.nyse.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 self-regulatory organization 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 those 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: (i) Footnote (E) to Section 102.01B of the Manual to modify the provisions relating to the qualification of companies listing without a prior Exchange Act registration; (ii) Rule 15 to add a Reference Price for when a security is listed under Footnote (E) to Section 102.01B; (iii) Rule 104 to specify DMM requirements when a security is listed under Footnote (E) to Section 102.10B and there has been no trading in the private market for such security; and (iv) Rule 123D to specify that the Exchange may declare a regulatory halt in a security that is the subject of an IPO or initial listing on the Exchange

Amendments to Footnote (E) to Section 102.01B

Generally, the Exchange expects to list companies in connection with a firm

commitment underwritten IPO, upon transfer from another market, or pursuant to a spin-off. Companies listing in connection with an IPO must demonstrate that they have \$40 million in market value of publicly-held shares,<sup>4</sup> while companies that are listing upon transfer from another exchange or the over-the counter market or pursuant to a spin-off must demonstrate that they have \$100 million in market value of publicly-held shares.

Section 102.01B currently contains a provision under which the Exchange recognizes that some companies that have not previously had their common equity securities registered under the Exchange Act, but which have sold common equity securities in a private placement, may wish to list their common equity securities on the Exchange at the time of effectiveness of a registration statement filed solely for the purpose of allowing existing shareholders to sell their shares. Footnote (E) to Section 102.01B provides that the Exchange will, on a case by case basis, exercise discretion to list such companies. In exercising this discretion, Footnote (E) provides that the Exchange will determine that such company has met the \$100 million aggregate market value of publicly-held shares requirement based on a combination of both (i) an independent third-party valuation (a “Valuation”) of the company and (ii) the most recent trading price for the company’s common stock in a trading system for unregistered securities operated by a national securities exchange or a registered broker-dealer (a “Private Placement Market”). The Exchange will attribute a market value of publicly-held shares to the company equal to the lesser of (i) the value calculable based on the Valuation and (ii) the value calculable based on the most recent trading price in a Private Placement Market.

Any Valuation used for purposes of Footnote (E) must be provided by an entity that has significant experience and demonstrable competence in the provision of such valuations. The Valuation must be of a recent date as of the time of the approval of the company for listing and the evaluator must have considered, among other factors, the annual financial statements required to be included in the registration statement, along with financial statements for any completed fiscal quarters subsequent to the end of the

<sup>4</sup> Shares held by directors, officers, or their immediate families and other concentrated holdings of 10 percent or more are excluded in calculating the number of publicly-held shares.

<sup>13</sup> 17 CFR 200.30-3(a)(12).

<sup>14</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 15 U.S.C. 78a.

<sup>3</sup> 17 CFR 240.19b-4.