

### 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)(ii) of the Act.<sup>14</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, 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 e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-Phlx-2010-143 in 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-Phlx-2010-143. This file number should be included on the subject line if e-mail 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. 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-Phlx-2010-143 and should be submitted on or before November 17, 2010.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>15</sup>

**Florence E. Harmon,**  
*Deputy Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-63146; File No. SR-BATS-2010-030]

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

October 21, 2010.

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 October 14, 2010, BATS Exchange, Inc. ("BATS" or the "Exchange") filed with the Securities and Exchange Commission (the "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 modify its fee schedule applicable to Members<sup>3</sup> of the Exchange pursuant to BATS Rules 15.1(a) and (c). While changes to the fee schedule pursuant to this proposal will be effective upon filing, the changes will become operative on October 15, 2010.

The text of the proposed rule change is available at the Exchange's Web site at <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 modify the "Equities Pricing" section of its fee schedule to adopt pricing for two new order routing strategies, named TRIM and SLIM, and for a Destination Specific Order sent to the Exchange's affiliate, BATS Y-Exchange, Inc. The Exchange also proposes to modify the "Options Pricing" section of its fee schedule to adopt pricing for Destination Specific orders routed to the new C2 Options Exchange. Finally, the Exchange proposes certain non-substantive changes related to the appearance of the fee schedule.

###### (i) Adoption of TRIM Pricing

The Exchange proposes to adopt pricing for its new TRIM order routing strategy, which strategy is focused on seeking execution of orders while minimizing execution costs by routing only to certain low cost execution venues on the Exchange's System routing table. The Exchange proposes to rebate Members \$0.0003 per share for TRIM orders routed to and executed by its affiliated exchange, BATS Y-Exchange, Inc. ("BYX"), which is the same rebate to be offered by BYX to market participants that route directly to and execute at BYX. For executions through TRIM routing that occur at a dark liquidity venue (identified by the Exchange as a "DRT" venue) or the NYSE, the Exchange proposes to charge \$0.0020 per share. Finally, to the extent an order routed through TRIM executes at a low-priced venue other than BYX, a DRT venue or NYSE, the Exchange proposes neither to charge the Member

<sup>14</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

<sup>15</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> A Member is any registered broker or dealer that has been admitted to membership in the Exchange.

any fee nor to pay any rebate for such execution.

(ii) Adoption of SLIM Pricing

The Exchange proposes to adopt pricing for its new SLIM order routing strategy, which, similar to TRIM, is focused on seeking execution of orders while minimizing execution costs by routing to certain low cost execution venues on the Exchange's System routing table. The primary distinction between TRIM and SLIM is that SLIM will route first to low cost execution venues but will ultimately route to all venues on the Exchange's System routing table, whereas TRIM only routes to low cost execution venues. As with TRIM, the Exchange proposes to rebate Members \$0.0003 per share for SLIM orders routed to and executed by its affiliated exchange, BYX. For executions through SLIM routing that occur at the NYSE, the Exchange proposes to charge \$0.0020 per share. Finally, to the extent an order routed through SLIM executes at any other venue, including any DRT venue, the Exchange proposes to charge \$0.0026 per share.

(iii) Destination Specific Equities Routing to BYX

The Exchange proposes to adopt pricing for a Destination Specific Order<sup>4</sup> routed to and executed by its affiliated exchange, BYX. The Exchange proposes to refer to this routing as "B2B" routing, and proposes to rebate \$0.0003 per share for B2B orders routed to and executed by BYX. As described above, this is the same rebate applicable to orders routed to BYX directly.

(iv) Destination Specific Options Routing to C2

As set forth in the Options pricing section of the fee schedule, the Exchange currently charges flat rates for Customer, Firm and Market Maker transactions executed at away markets pursuant to Destination Specific Order<sup>5</sup> routing strategies, which rates vary depending on the venue at which transactions execute.<sup>6</sup> The Exchange has two distinct categories of options exchanges with "Make/Take" pricing.<sup>7</sup> The first category of Make/Take pricing is proposed to apply to Destination

Specific Orders executed at the International Stock Exchange ("ISE") or NASDAQ OMX PHLX ("PHLX") in issues for which Make/Take pricing applies. The fee for this first category of Make/Take markets is proposed as \$0.20 per contract for Customer transactions and \$0.50 per contract for Firm or Market Maker transactions. The Exchange proposes to add the soon to be operational C2 Options Exchange ("C2") to this category of Destination Specific routing. The Exchange believes that Members will benefit from the simplicity of the pricing structure, and that C2 pricing will be most consistent with the pricing offered by ISE and PHLX in issues for which Make/Take pricing applies.

(v) Additional Changes

In addition to the changes described above, the Exchange proposes adding additional headings to its fee schedule in order to maintain clear delineation between its equities and options pricing sections. The Exchange also proposes to move a footnote within the equities pricing section of the fee schedule to maintain its position at the bottom of the page in the version of the fee schedule maintained on its Web site.

2. Statutory Basis

The Exchange believes that the proposed rule change 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 of the Act.<sup>8</sup> Specifically, the Exchange believes that the proposed rule change is consistent with Section 6(b)(4) of the Act,<sup>9</sup> in that it provides for the equitable allocation of reasonable dues, fees and other charges among members and other persons using any facility or system which the Exchange operates or controls. The Exchange notes that it operates in a highly competitive market in which market participants can readily direct order flow to competing venues if they deem fee levels at a particular venue to be excessive. The Exchange believes that its fees and credits are competitive with those charged by other venues. Finally, the Exchange believes that the proposed rates are equitable in that they apply uniformly to all Members.

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

The Exchange does not believe that the proposed rule change imposes any burden on competition.

*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**

The foregoing proposed rule change has been designated as a fee change pursuant to Section 19(b)(3)(A)(ii) of the Act<sup>10</sup> and Rule 19b-4(f)(2) thereunder,<sup>11</sup> because it establishes or changes a due, fee or other charge imposed on members by the Exchange. Accordingly, the proposal is effective upon filing with the Commission.

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 e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-BATS-2010-030 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-BATS-2010-030. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use

<sup>4</sup> As defined in BATS Rule 11.9(c)(12).

<sup>5</sup> As defined in BATS Rule 21.1(d)(7).

<sup>6</sup> The current form of the Exchange's Destination Specific routing fees were recently adopted. See Securities Exchange Act Release No. 63085 (October 8, 2010) (SR-BATS-2010-026).

<sup>7</sup> As defined on the fee schedule, Make/Take pricing refers to executions at the identified Exchange under which "Post Liquidity" or "Maker" rebates ("Make") are credited by that exchange and "Take Liquidity" or "Taker" fees ("Take") are charged by that Exchange.

<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)(ii).

<sup>11</sup> 17 CFR 240.19b-4(f)(2).

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,<sup>12</sup> 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, on official business days between the hours of 10 a.m. and 3 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-BATS-2010-030 and should be submitted on or before November 17, 2010.

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

**Florence E. Harmon,**  
Deputy Secretary.

[FR Doc. 2010-27141 Filed 10-26-10; 8:45 am]

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-63148; File No. SR-BYX-2010-003]

### Self-Regulatory Organizations; BATS Y-Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Rule 11.13, entitled "Order Execution"

October 21, 2010.

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 October 13, 2010, BATS Y-Exchange, Inc. (the "Exchange" or "BYX") 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 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 BATS Rule 11.13 [sic],<sup>3</sup> entitled "Order Execution," to modify the description of certain routing strategies that the Exchange proposes to offer when it commences operations.

#### 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 11.13, which describes its order routing processes, to modify the description of certain routing strategies that the Exchange proposes to offer when it commences operations.

Recently, the Exchange proposed addition of reference in its Rules to various routing strategies that will be available through BYX based on the rules of its affiliate, BATS Exchange, Inc. ("BATS Exchange"). Such strategies include the CYCLE routing strategy, variations of the Parallel routing strategy, DRT routing and Destination Specific Routing. The Exchange proposes to further amend Rule 11.13 to offer two new routing strategies, which are described below.

- **TRIM.** TRIM is a routing option under which an order will check the System for available shares and then will be sent to destinations on the System routing table.
- **SLIM.** SLIM is a routing option under which an order will check the System for available shares and then will be sent to destinations on the

System routing table, including BATS Exchange.

In addition to the addition of the TRIM and SLIM routing strategies, the Exchange proposes modifying the description of the Parallel T routing strategy to make clear that when checking the Exchange's System for available shares, it will only check for displayed shares prior to routing away from the Exchange. The Parallel T routing strategy is intended to route only to Protected Quotations and only for displayed size, and thus, the Exchange believes that removal of only displayed size from its own System is most consistent with this strategy.

Exchange Rule 11.13(a)(3)(E) includes a definition of DRT routing, which is a routing option in which the entering firm instructs the System to route to alternative trading systems included in the System routing table. The definition of DRT currently states that it can be combined with three specified routing strategies offered by the Exchange. The Exchange proposes modifying the description of DRT routing to make clear that it can be combined with all routing strategies, including the new TRIM and SLIM routing strategies, unless otherwise specified. In addition, because some routing strategies offered by the Exchange might include DRT routing at a later stage, the Exchange proposes to remove the word "first" from the definition of the DRT routing strategy.

###### 2. Statutory Basis

The rule change proposed in this submission 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>4</sup> Specifically, the proposed change is consistent with Section 6(b)(5) of the Act,<sup>5</sup> because it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to, and perfect the mechanism of, a free and open market and a national market system. The proposed change to introduce additional routing strategies will provide market participants with greater flexibility in routing orders consistent with Regulation NMS without developing complicated order routing strategies on their own.

<sup>12</sup> The text of the proposed rule change is available on the Commission's Web site at <http://www.sec.gov/rules/sro.shtml>.

<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>3</sup> The Commission notes that the Exchange proposes to amend BYX Rule 11.13.

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

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