

#### 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-NYSEArca-2010-05 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-NYSEArca-2010-05. 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, 100 F Street, NE., Washington, DC 20549, 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-NYSEArca-2010-05 and should be submitted on or before March 15, 2010.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>10</sup>

**Florence E. Harmon,**

*Deputy Secretary.*

[FR Doc. 2010-3331 Filed 2-19-10; 8:45 am]

BILLING CODE 8011-01-P

#### SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-61508; File No. SR-BATS-2010-001]

#### **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.**

February 5, 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 January 29, 2010, BATS Exchange, Inc. (the "Exchange" or "BATS") 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. BATS 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 proposes to modify its fee schedule applicable to Members<sup>5</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 February 1, 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 Statutory Basis for, the Proposed Rule Change*

##### **1. Purpose**

The Exchange proposes to modify its fee schedule applicable to use of the Exchange effective February 1, 2010, in order to (i) implement a fee of 0.10% of the total dollar value for trades that remove liquidity in securities priced below \$1.00; (ii) increase the fee charged by the Exchange for its "CYCLE" and "RECYCLE" routing strategies from \$0.0026 per share to \$0.0027 per share; and (iii) amend the fees for certain destination specific routing options to continue to offer a "one under" pricing model.

##### **(i) Charge for Removing Liquidity in Securities Priced Below \$1.00**

The Exchange has not previously charged Members for transactions that remove liquidity from or add liquidity to the Exchange's book in securities priced below \$1.00. The Exchange proposes to begin charging 0.10% of the total dollar value of the execution for any security (all Tapes) priced under \$1.00 that removes liquidity from the Exchange's book. The Exchange is not proposing to provide a liquidity rebate in such securities at this time. The Exchange believes that a nominal fee is warranted for securities priced below \$1.00 for various reasons, including that such transactions inevitably contribute to the overall infrastructure costs incurred by the Exchange.

##### **(ii) Increase in Routing Fees for "CYCLE" and "RECYCLE" Routing**

Based on increased fees at various market centers to remove liquidity, the Exchange proposes to modify the fee charged by the Exchange for its "CYCLE" and "RECYCLE" routing strategies from \$0.0026 per share to \$0.0027 per share. To be consistent with this change, the Exchange proposes to

<sup>10</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> A Member is any registered broker or dealer that has been admitted to membership in the Exchange.

charge 0.27%, rather than 0.26%, of the total dollar value of the execution for any security (all Tapes) priced under \$1.00 per share that is routed away from the Exchange through CYCLE or RECYCLE.

(iii) **One Under Pricing for Destination Specific Orders**

The Exchange has previously provided a discounted price fee for Destination Specific Orders routed to certain of the largest market centers measured by volume (NYSE, NYSE Arca and NASDAQ), which, in each instance has been \$0.0001 less per share for orders routed to such market centers by the Exchange than such market centers currently charge for removing liquidity (referred to by the Exchange as "One Under" pricing). Based on changes in pricing at such market centers, BATS is proposing various changes to its prices for Destination Specific Orders to align its fees so they are \$0.0001 less per share for orders routed to such market centers as of February 1, 2010. Specifically, because NYSE Arca has eliminated the distinction in its fees between Tape A, B, and C securities the Exchange proposes to eliminate that same distinction for BATS + NYSE Arca Destination Specific Orders. Thus, the Exchange proposes to normalize the fee charged for BATS + NYSE ARCA Destination Specific Orders executed at NYSE Arca at \$0.0027 per share, which fee is a reduction for Tape A and C securities from \$0.0029 per share. Also, the Exchange proposes to continue to charge \$0.0029 per share for BATS + NASDAQ Destination Specific Orders executed at NASDAQ in Tape A and C securities, but to reduce the fee to \$0.0027 per share for BATS + NASDAQ Destination Specific Orders executed at NASDAQ in Tape B securities. Each of the changes described above will result in the Exchange charging \$0.0001 less per share for orders routed to certain market centers as Destination Specific Orders.

**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>6</sup> Specifically, the Exchange believes that the proposed rule change is consistent with Section 6(b)(4) of the Act,<sup>7</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 and that the various changes it has proposed to reduce its fees will benefit Members due to the obvious economic savings Members will receive. For those proposed changes that will result in increased fees charged to Members, such as the charge for trades that remove liquidity in securities below \$1.00 and the increased fee for CYCLE and RECYCLE routing, the Exchange believes that any additional revenue it receives will allow the Exchange to devote additional capital to its operations, which may, in turn, benefit Members of the Exchange. 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**

No written comments were solicited or received.

**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>8</sup> and Rule 19b-4(f)(2) thereunder,<sup>9</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 may summarily abrogate 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**

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**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 No. SR-BATS-2010-001 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 No. SR-BATS-2010-001. 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,<sup>10</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 changes 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 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of BATS. 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-BATS-2010-001 and should be submitted on or before March 15, 2010.

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

<sup>7</sup> 15 U.S.C. 78f(b)(4).

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

<sup>9</sup> 17 CFR 240.19b-4(f)(2).

<sup>10</sup> The text of the proposed rule change is available on the Commission's Web site at <http://www.sec.gov/rules/sro.shtml>.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>11</sup>

**Florence E. Harmon,**

*Deputy Secretary.*

[FR Doc. 2010-3330 Filed 2-19-10; 8:45 am]

**BILLING CODE 8011-01-P**

## SOCIAL SECURITY ADMINISTRATION

### Agency Information Collection Activities: Emergency Request

The Social Security Administration (SSA) publishes a list of information collection packages requiring clearance by the Office of Management and Budget (OMB) in compliance with Public Law (Pub. L.) 104-13, the Paperwork Reduction Act of 1995, effective October 1, 1995. This notice includes a new form for which we are requesting emergency OMB clearance.

SSA is soliciting comments on the accuracy of the agency's burden estimate; the need for the information; its practical utility; ways to enhance its quality, utility, and clarity; and ways to minimize burden on respondents, including the use of automated collection techniques or other forms of information technology. Mail, e-mail, or fax your comments and recommendations on the information collection to the OMB Desk Officer and the SSA Reports Clearance Officer to the following addresses or fax numbers. (OMB) Office of Management and

Budget, Attn: Desk Officer for SSA,  
Fax: 202-395-6974, E-mail address:  
*OIRA\_Submission@omb.eop.gov.*  
(SSA) Social Security Administration,  
DCBFM, Attn: Reports Clearance

Officer, 1340 Annex Building, 6401 Security Blvd., Baltimore, MD 21235,  
Fax: 410-965-8783, E-mail address:  
*OPLM.RCO@ssa.gov.*

SSA submitted the information collection below to OMB for Emergency Clearance. SSA is requesting Emergency Clearance from OMB no later than March 1, 2010. Individuals can obtain copies of the collection instrument by calling the SSA Reports Clearance Officer or by writing to the above e-mail address.

### Request for Accommodation in Communication Method—0960-NEW.

#### Background

In a recent legal action, *American Council of the Blind, et al. v. Michael Astrue and Social Security Administration* (No. C 05-04696 WHA (N.D. Cal.)), class plaintiffs representing blind or visually impaired Social Security applicants, beneficiaries, recipients, and representative payees challenged the adequacy of the modes of communication used by SSA in its notices and other communications. Prior to the district court's order of October 20, 2009, in *American Council of the Blind*, SSA had offered three modes of communications for blind and visually impaired Social Security beneficiaries: (1) A standard print notice by first-class mail; (2) a standard print notice by first-class mail with a follow-up telephone call; and (3) certified mail. In *American Council of the Blind*, the district court required SSA to begin offering two new modes of communication to blind or visually impaired applicants, beneficiaries, recipients, and representative payees:

Braille and Microsoft Word files (on data compact discs).

#### Current Information Collection

In accordance with the court order, beginning January 1, 2010, affected parties can call a designated SSA number and tell the agency which of the following five methods of communication they want the agency to use for their notices and other communications: (1) Standard print notice by first-class mail, (2) standard print mail with a follow-up telephone call, (3) certified mail, (4) Braille, or (5) Microsoft Word. This call did not require OMB clearance.

However, there may be respondents who want SSA to use another communication method. SSA has created form SSA-9000, the Request for Accommodation in Communication Method, for these situations. This form will ask respondents to describe the type of accommodation they want, to disclose the condition they have that necessitates the need for a different type of accommodation, and to explain why none of the five methods described above are sufficient for their needs.

Since we must make this form available shortly due to court-ordered deadlines, we are requesting emergency clearance. The respondents are Social Security applicants, beneficiaries, recipients, and representative payees who are blind or visually impaired and are asking SSA to send them notices and other communications in an alternative method besides the five modalities described in this Notice.

*Type of Request:* Emergency clearance of a new information collection.

Method of information collection	Number of respondents	Response time (minutes)	Burden (hours)
Personal interview (over the phone or in-person) .....	2,000	10	333
Form (taken or mailed from field office) .....	500	15	125
	2,500	.....	458

Dated: February 16, 2010.

**Faye Lipsky,**

*Acting Reports Clearance Officer, Social Security Administration.*

[FR Doc. 2010-3304 Filed 2-19-10; 8:45 am]

**BILLING CODE 4191-02-P**

## SOCIAL SECURITY ADMINISTRATION

[Docket No. SSA 2010-0006]

### Privacy Act of 1974, as Amended; Computer Matching Program (SSA/ Department of Veterans Affairs/ Veterans Benefits Administration (VA/ VBA))—Match Number 1309

**AGENCY:** Social Security Administration (SSA).

**ACTION:** Notice of a renewal of an existing computer matching program that is scheduled to expire on April 1, 2010.

**SUMMARY:** In accordance with the provisions of the Privacy Act, as amended, this notice announces a renewal of an existing computer matching program that we are currently conducting with VA/VBA.

**DATES:** We will file a report of the subject matching program with the

<sup>11</sup> 17 CFR 200.30-3(a)(12).