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SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-67132; File No. SR-BATS-2012-022)

June 5, 2012

Self-Regulatory Organizations; BATS Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to the Proposed Membership of Apex Clearing

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the “Act”),¹ and Rule 19b-4 thereunder,² notice is hereby given that on June 5, 2012, BATS Exchange, Inc. (the “Exchange” or “BATS”) 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 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 temporarily suspend the requirements of Exchange Rule 2.6 and related Exchange rules concerning the approval of new Members³ of the Exchange in order to approve Apex Clearing Corporation, f/k/a Ridge Clearing and Outsourcing Solutions, Inc. (“Apex Clearing”) as an Exchange Member, subject to Apex Clearing complying with Exchange Rules for a new Member within 30 calendar days of the date that Apex Clearing is provisionally approved as an Exchange Member. The Exchange is also proposing to accept Apex Clearing’s assumption of all of the existing clearing agreements and arrangements currently in effect

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ A “Member” is defined in Rule 2.5(n) as any registered broker or dealer that has been admitted to membership in the Exchange.

between Penson Financial Services Inc. (“PFSI”) and various other Exchange Members by execution of a global agreement thereto.

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 this rule filing to temporarily suspend the requirements of Exchange Rule 2.6 and related rules regarding the approval of Members in order to immediately approve Apex Clearing as an Exchange Member. The Exchange proposes this temporary suspension on an emergency basis to ensure that Apex Clearing can continue the clearing operations of PFSI without unnecessary disruption, which could have a significant collateral impact to a number of other Members. The proposed temporary suspension is contingent upon Apex Clearing having complied with all new Member Exchange Rules within 30 calendar days of the date Apex Clearing is provisionally approved as an Exchange Member pursuant to this filing.

On May 31, 2012, Apex Clearing Holdings, LLC (“Apex Holdings”), Apex Clearing Solutions, LLC, Broadridge Financial Solutions, Inc. (“Broadridge”), PFSI and Penson Worldwide, Inc. (“PWI”) (together, the “Parties”) consummated a transaction resulting in a

change in ownership of Apex Clearing.⁴ Broadridge, Apex Holdings, PWI and PFSI each made capital investments in Apex Holdings, the holding company parent of Apex Clearing. PFSI also assigned all of its U.S. clearing contracts and all customer and introducing broker proprietary accounts along with key personnel to Apex Clearing (the “Transferring Accounts”).⁵

As a result of the transaction, Apex Clearing, which is not an Exchange Member, will provide the clearing and execution services currently provided to the Transferring Accounts by PFSI. On May 31, 2012, Apex Clearing submitted an application for approval as an Exchange Member. However because of the expedited nature of the transaction, Apex Clearing was unable to fully comply with Exchange Rule 2.6 and related new Member rules. Because of the need for seamless continuity with respect to the Transferring Accounts, Apex Clearing has requested that the Exchange temporarily suspend its new Member rules in order to enable Apex Clearing’s approval as a Member on an expedited basis. Pursuant to its request, Apex Clearing will fully comply with the Exchange’s new Member requirements within 30 calendar days after provisional approval.

Exchange Rule 2.6 requires any person who proposes to become a Member of the Exchange to submit such specified agreements and supplementary information as may be required by the Exchange. Among other things, to be approved as an Exchange Member, the applicant must:

⁴ Prior to the Transaction, Apex Clearing’s name was Ridge Clearing & Outsourcing Solutions, Inc. Prior to the transaction, Ridge Clearing & Outsourcing Solutions, Inc. contributed its outsourcing operations and all associated personnel and systems to its affiliated entity, Broadridge Securities Processing Solutions, LLC (“BSPS”) where it will continue to provide operations support and outsourcing services to a number of broker-dealers, including Apex Clearing.

⁵ See Penson Worldwide, Inc. Form 8-K dated May 31, 2012.

- Provide the Exchange with a written application with the name and address of the applicant as well an agreement to abide by, comply with, and adhere to the provisions of the Exchange's Rules (Exchange Rule 2.6);
- Submit to the Exchange partnership or corporate documents as may be applicable including applicable corporate formation documents of the applicant (Exchange Rule 2.6);
- Submit to the Exchange a list and descriptive identification of those persons associated with the applicant who are its executive officers, directors, principal shareholders, and general partners (Exchange Rule 2.6); and
- Register associated persons with the Exchange that satisfy the Exchange's registration requirements (Exchange Rule 2.4, Interpretation and Policy .01, .03).

In addition, the Exchange reviews whether the applicant meets applicable net capital requirements and conducts other due diligence regarding an applicant. Due to the amount of information an applicant is required to provide and have completed prior to being approved as an Exchange Member, the membership approval process sometimes takes several months to complete. The length of time varies based on the timing of the applicant's response to requests for information and documentation.

As proposed, Apex Clearing will continue the clearing and certain other operations of PFSI as of June 6, 2012. In order to avoid interruption of the services PFSI currently provides to other Exchange Members, the Exchange believes that Apex Clearing should be approved immediately as an Exchange Member. The Exchange notes that Apex Clearing is already a

registered broker dealer and FINRA member, which satisfies existing prerequisites for becoming an Exchange Member.⁶

The Exchange therefore proposes providing Apex Clearing with a temporary suspension of Exchange Rule 2.6 and related membership rules as they relate to approval to operate an Exchange Member, and immediately approving Apex Clearing as a Member. As proposed this temporary suspension is contingent upon Apex Clearing and its associated persons' compliance with the Exchange's new Member requirements as set forth in Chapter II of the Exchange's Rules within 30 calendar days of Apex Clearing's approval as a Member under this proposed filing. As proposed, if Apex Clearing does not comply with all applicable Exchange Member application requirements within 30 calendar days of the effective date of this filing, its status as an Exchange Member will no longer be effective.

In addition, the Exchange proposes to permit Apex Clearing to assume all existing clearing agreements and arrangements currently in effect with other Exchange Members by execution of global agreements thereto. Notice of such assumption will be provided to impacted Members prior to the effective date thereof.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with Section 6(b)⁷ of the Securities Exchange Act of 1934 (the "Act"), in general, and furthers the objectives of Section 6(b)(5)⁸ in particular in that it is designed to promote just and equitable principles of trade, to prevent fraudulent and manipulative acts, to remove impediments to and to perfect the

⁶ Exchange Rule 2.3 requires registration as a broker-dealer and membership with at least one other registered national securities exchange or association.

⁷ 15 U.S.C. 78f(b).

⁸ 15 U.S.C. 78f(b)(5).

mechanism for a free and open market and a national market system and, in general, to protect investors and the public interest. The Exchange believes that permitting the expeditious approval of Apex Clearing as an Exchange Member will avoid interruption of the services PFSI currently provides to other Exchange Members. Based on information and representations provided by Apex Clearing, a temporary suspension of certain Exchange membership rules is needed based on the expedited nature of the transaction to enable seamless continuity with respect to the transferring accounts. Consequently, the Exchange believes that temporary suspension of its member organization requirements so that Apex Clearing can be approved immediately as an Exchange Member will help to foster cooperation and coordination with persons engaged in facilitating transactions in securities and is consistent with the Act.

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 Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act⁹ and Rule 19b-4(f)(6) thereunder.¹⁰ Because the 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 prior to 30 days from the date on which it was

⁹ 15 U.S.C. 78s(b)(3)(A)(iii).

¹⁰ 17 CFR 240.19b-4(f)(6).

filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act¹¹ and Rule 19b-4(f)(6)(iii) thereunder.¹²

A proposed rule change filed under Rule 19b-4(f)(6)¹³ normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b-4(f)(6)(iii),¹⁴ the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest.

The Exchange has asked the Commission to waive the five-day pre-filing requirement and the 30-day operative delay so that the proposed rule change may become operative immediately upon filing. The Commission notes that the Exchange is proposing that certain of its rules relating to membership requirements be temporarily suspended so that Apex Clearing can be provisionally approved as an Exchange Member. The proposed relief does not exempt Apex Clearing from Exchange rule requirements governing Members. Apex Clearing would have a 30 calendar day grace period within which to apply for and be approved under relevant Exchange rules. Moreover, the Commission believes that waiver of the 30-day operative delay is appropriate to ensure a smooth transition of PFSI operations to Apex Clearing. In particular, given the rapidity with which events have developed, waiver of the 30-day operative delay is necessary to avoid significant disruption to PFSI's existing customers and the market generally.

¹¹ 15 U.S.C. 78s(b)(3)(A).

¹² 17 CFR 240.19b-4(f)(6)(iii). In addition, Rule 19b-4(f)(6)(iii) requires a self-regulatory organization to give the Commission written notice of its intent to file 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. The Commission is waiving this five-day pre-filing requirement.

¹³ 17 CFR 240.19b-4(f)(6).

¹⁴ 17 CFR 240.19b-4(f)(6)(iii).

Therefore, the Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest and designates the proposed rule change as operative upon filing.¹⁵

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. Please include File Number SR-BATS-2012-022 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.

¹⁵ For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

All submissions should refer to File Number SR-BATS-2012-022. 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 website (<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 website 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 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-2012-022 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁶

Kevin M. O'Neill
Deputy Secretary

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¹⁶ 17 CFR 200.30-3(a)(12).