



8011-01p
SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-74726; File No. SR-BATS-2015-29)

April 14, 2015

Self-Regulatory Organizations; BATS Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Amend the Content of the BATS One Feed Under Rule 11.22(j) to Include Consolidated Volume for all Listed Equity Securities

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 April 6, 2015, BATS Exchange, Inc. (the “Exchange” or “BZX”) 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 Act³ and Rule 19b-4(f)(6)(iii) thereunder,⁴ 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 the Substance of the Proposed Rule Change

The Exchange amend [sic] the content of the BATS One Feed under Rule 11.22(j) to include consolidated volume for all listed equity securities. The text of the proposed rule change is available at the Exchange’s website at www.batstrading.com, at the principal office of the Exchange, and at the Commission’s Public Reference Room.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 15 U.S.C. 78s(b)(3)(A).

⁴ 17 CFR 240.19b-4(f)(6)(iii).

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 amend the content of the BATS One Feed under Rule 11.22(j) to include consolidated volume for all listed equity securities. The Commission recently approved a proposed rule change by the Exchange to establish a new market data product called the BATS One Feed.⁵ The BATS One Feed is a data feed that disseminates, on a real-time basis, the aggregate best bid and offer ("BBO") of all displayed orders for securities traded on BZX and its affiliated exchanges⁶ and for which the BATS Exchanges reports quotes under the

⁵ See Securities Exchange Act Release No. 73918 (December 23, 2014), 79 FR 78920 (December 31, 2014) (File Nos. SR-EDGX-2014-25; SR-EDGA-2014-25; SR-BATS-2014-055; SR-BYX-2014-030) (Notice of Amendments No. 2 and Order Granting Accelerated Approval to Proposed Rule Changes, as Modified by Amendments Nos. 1 and 2, to Establish a New Market Data Product called the BATS One Feed) ("BATS One Approval Order").

⁶ BZX's affiliated exchanges are the BATS Y-Exchange, Inc. ("BYX"), the EDGA Exchange, Inc. ("EDGA"), and the EDGX Exchange, Inc. ("EDGX", together with EDGA, BZX, and BYX, the "BATS Exchanges"). On January 23, 2014, BATS Global Markets, Inc. ("BGMI"), the former parent company of the Exchange and BYX, completed its business combination with Direct Edge Holdings LLC, the parent company of EDGA and EDGX. See Securities Exchange Act Release No. 71375 (January 23, 2014), 79 FR 4771 (January 29, 2014) (SR-BATS-2013-059; SR-BYX-2013-039). Upon completion of the business combination, DE Holdings and BGMI each became intermediate holding companies, held under a single new holding company. The new

holding company, formerly named “BATS Global Markets Holdings, Inc.,” changed its name to “BATS Global Markets, Inc.” and BGMI changed its name to “BATS Global Markets Holdings, Inc.”

Consolidated Tape Association (“CTA”) Plan or the Nasdaq/UTP Plan.⁷

The last sale information disseminated as part of the BATS One Feed includes the price, size, time of execution, and individual BATS Exchange on which the trade was executed. The last sale information also includes the cumulative number of shares executed on all BATS Exchanges for that trading day.⁸ The Exchange now proposes to expand the last sale information to include consolidated volume for all listed equity securities regardless of where the transaction was executed. The Exchange would obtain the consolidated volume directly from the securities information processors and then distribute in a manner consistent with the requirements for redistributing such data as set forth in the CTA Plan and Nasdaq UTP Plan.⁹

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act¹⁰ in general, and furthers the objectives of Section 6(b)(5) of the Act¹¹ in particular, in that it is

⁷ The Exchange understands that each of the BATS Exchanges will separately file substantially similar proposed rule changes with the Commission to implement fees for the BATS One Feed.

⁸ The BATS One Feed also contains optional functionality which enables recipients to receive aggregated two-sided quotations from the BATS Exchanges for up to five (5) price levels for all securities that are traded on the BATS Exchanges in addition to the BATS One Summary Feed (“BATS One Premium Feed”). For each price level on one of the BATS Exchanges, the BATS One Premium Feed includes a two-sided quote and the number of shares available to buy and sell at that particular price level.

⁹ See CTA Consolidated Volume Display Policy available at <https://www.ctaplan.com> (dated March 2015). The CTA Consolidated Volume Display Policy requires that, “[i]f a Customer calculates the CTA Consolidated Volume and displays that alongside last sale prices or bid-asked quotes that are not consolidated prices or quotes under the CTA Plan or the CQ Plan, then the Customer must incorporate into its display the following statement: “Realtime quote and/or trade prices are not sourced from all markets.” Customer must also assure that any person included in the redistribution chain starting with the Customer conspicuously places such a statement in any such display that it provides.” *Id.*

¹⁰ 15 U.S.C. 78f(b).

¹¹ 15 U.S.C. 78f(b)(5).

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 Exchange also believes that the proposed rule change is consistent with Section 11(A) of the Act¹² in that it supports (i) fair competition among brokers and dealers, among exchange markets, and between exchange markets and markets other than exchange markets and (ii) the availability to brokers, dealers, and investors of information with respect to quotations for and transactions in securities. Furthermore, the proposed rule change is consistent with Rule 603 of Regulation NMS,¹³ which provides that any national securities exchange that distributes information with respect to quotations for or transactions in an NMS stock do so on terms that are not unreasonably discriminatory. In adopting Regulation NMS, the Commission granted self-regulatory organizations and broker-dealers increased authority and flexibility to offer new and unique market data products to the public. It was believed that this authority would expand the amount of data available to consumers, and also spur innovation and competition for the provision of market data.

The proposed rule change is designed to promote just and equitable principles of trade and remove impediments to and perfect the mechanism of a free and open market and a national market system by providing for the broader dissemination of consolidated volume to investors. The Exchange also believes this proposal is consistent with Section 6(b)(5) of the Act because it protects investors and the public interest and promotes just and equitable principles of trade by providing investors with new options for receiving consolidated volume. The Exchange also believes that the proposed rule change is reasonable because consolidated volume is currently

¹² 15 U.S.C. 78k-1.

¹³ See 17 CFR 242.603.

included in a competing market data products offered by the NYSE and Nasdaq.¹⁴ Therefore, the Exchange believes the proposed rule change removes impediments to and perfects the mechanism of a free and open market and a national market system, and, in general, protects investors and the public interest.

Lastly, the proposal would not permit unfair discrimination because the consolidated volume will be available to all of the Exchange's customers and market data vendors on an equivalent basis. In addition, any customer that wishes to receive consolidated volume via a different source will be able to do so.

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

The Exchange does not believe that the proposal will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The Exchange believes that the proposed rule change will enhance competition because it would enable the Exchange to include consolidated volume as part of the BATS One Feed, thereby enabling it to better

¹⁴ See Securities Exchange Act Release No. 73553 (November 6, 2014), 79 FR 67491 (November 13, 2014) (SR-NYSE-2014-40) (Notice of Amendment No. 1 and Order Granting Accelerated Approval to a Proposed Rule Change, as Modified by Amendment No.1, To Establish the NYSE Best Quote & Trades ("BQT") Data Feed); <http://www.nyxdata.com/Data-Products/NYSE-Best-Quote-and-Trades> (last visited May 27, 2014) (data feed providing unified view of BBO and last sale information for the NYSE, NYSE Arca, and NYSE MKT) ("NYSE BQT Approval Order"). See also Nasdaq Basic, <http://www.nasdaqtrader.com/Trader.aspx?id=NASDAQbasic> (last visited March 26, 2015) (data feed offering the BBO and Last Sale information for all U.S. exchange-listed securities based on liquidity within the Nasdaq market center, as well as trades reported to the FINRA/Nasdaq Trade Reporting Facility ("TRF")); and Nasdaq NLS Plus, <http://www.nasdaqtrader.com/Trader.aspx?id=NLSplus> (last visited July 8, 2014) (data feed providing last sale data as well as consolidated volume from the following Nasdaq OMX markets for U.S. exchange-listed securities: Nasdaq, FINRA/Nasdaq TRF, Nasdaq OMX BX, and Nasdaq OMX PSX).

compete with similar market data products currently offered by the NYSE and Nasdaq that include such volume.¹⁵

Finally, although the BATS Exchanges are the exclusive distributors of the individual data feeds from which certain data elements would be taken to create the BATS One Feed, the Exchange is not the exclusive distributor of the consolidated volume that would be included in the BATS One Feed. A vendor seeking to offer a similar product and include consolidated volume would be able to do so on the same terms as the Exchange from a cost perspective. As discussed in the BATS One Approval Order,¹⁶ any entity may separately purchase the individual underlying products, and if they so choose, perform a similar aggregation and consolidation function that the Exchange performs in creating the BATS One Feed, and offer a data feed with the same information included in the BATS One Feed to sell and distribute it to its clients with no greater cost than the Exchange. Likewise, a competing vendor could also receive consolidated volume from the securities information processors and include it as part of their product to be disseminated to their customers under the same terms and policies provided to the Exchange¹⁷. Therefore, the Exchange believes the inclusion of consolidated volume in the BATS One Feed would not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

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.

¹⁵ See id. (noting that NYSE BQT and NLS Plus carry consolidated volume for all listed equities).

¹⁶ See BATS One Approval Order, supra note 5.

¹⁷ See CTA Consolidated Volume Display Policy, supra note 9.

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

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 for 30 days from the date on which it was 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 Act¹⁸ and Rule 19b-4(f)(6)(iii) thereunder.¹⁹

A proposed rule change filed pursuant to Rule 19b-4(f)(6) under the Act²⁰ normally does not become operative for 30 days after the date of its filing. However, Rule 19b-4(f)(6)(iii)²¹ permits the Commission to 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 30-day operative delay so that the proposal may become operative immediately upon filing. The Exchange believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because it would allow the Exchange to timely offer investors a new option for receiving consolidated volume information. The Exchange further notes that other exchanges currently offer similar data products that include consolidated volume.²² The Commission believes that waiving the 30-day operative delay is consistent with

¹⁸ 15 U.S.C. 78s(b)(3)(A).

¹⁹ 17 CFR 240.19b-4(f)(6)(iii). As required under Rule 19b-4(f)(6)(iii), the Exchange provided the Commission with written notice of its intent to file the proposed rule change, along with a brief description and the 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.

²⁰ 17 CFR 240.19b-4(f)(6).

²¹ 17 CFR 240.19b-4(f)(6)(iii).

²² See supra note 14 (noting that NYSE BQT and NLS Plus carry consolidated volume for all listed equities).

the protection of investors and the public interest. Therefore, the Commission hereby waives the operative delay and designates the proposed rule change operative upon filing.²³

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-2015-29 on the subject line.

Paper comments:

- Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-1090.

All submissions should refer to File Number SR-BATS-2015-29. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your

²³ 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).

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, D.C. 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such 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-2015-29, 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.²⁴

Brent J. Fields
Secretary

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²⁴ 17 CFR 200.30-3(a)(12).