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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-78338; File No. SR-BatsBZX-2016-41]

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

July 15, 2016

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 July 13, 2016, Bats BZX Exchange, Inc. (the “Exchange” or “BZX”) 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. The Exchange 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

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<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).

The Exchange filed a proposal to amend the fee schedule applicable to Members<sup>5</sup> and non-members of the Exchange pursuant to BZX Rules 15.1(a) and (c) in order to amend the Tape B Quoting Tier.

The text of the proposed rule change is available at the Exchange's website 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 Exchange proposes to amend its Fee Schedule to amend the requirements for meeting the Tape B Quoting Tier for LMP Securities.<sup>6,7</sup> Specifically, the Exchange is proposing

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<sup>5</sup> The term "Member" is defined as "any registered broker or dealer that has been admitted to membership in the Exchange." See Exchange Rule 1.5(n).

<sup>6</sup> "LMP Securities" means a list of securities included in the Liquidity Management Program, the universe of which will be determined by the Exchange and published in a circular distributed to Members and on the Exchange's website. Such LMP Securities will include all Bats-listed ETPs and certain non-Bats-listed ETPs for which the Exchange wants to incentivize Members to provide enhanced market quality. All Bats-listed securities will be LMP Securities immediately upon listing on the Exchange. The Exchange will not remove a security from the list of LMP Securities without 30 days prior notice.

that a Member will qualify for Tier 1 of the Tape B Quoting Tier where the Member is enrolled in at least 50 LMP Securities for which it meets the required criteria<sup>8</sup> (the “Required Criteria”) for at least 50% of the trading days in a particular month. As currently implemented, a Member must be enrolled in 50 LMP Securities for which it meets the Required Criteria every trading day in a month in order to be eligible for the additional rebate in Tape B<sup>9</sup> securities. As proposed, the Exchange would count an LMP Security toward the 50 LMP Security requirement where the Member meets the Required Criteria for at least 50% of the trading days in a particular month. A Member would qualify for the Tape B Quoting Tier where the Member meets the Required Criteria for 50 different LMP Securities for at least 50% of the trading days in a particular month. The Required Criteria for each LMP Security will each be evaluated separately and the Member does not need to meet the Required Criteria for all 50 LMP Securities on the same 50% of trading days. For example, in a month with 22 trading days, a Member would be eligible for the Tape B Quoting Tier where the Member met the Required Criteria in 25 LMP Securities in

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<sup>7</sup> The Exchange notes that it originally filed a similar proposal as file number SR-BatsBZX-2016-32 on June 30, 2016, which it subsequently withdrew and filed another similar proposal as file number SR-BatsBZX-2016-38 on July 6, 2016, which it also subsequently withdrew and filed another similar proposal as file number SR-BatsBZX-2016-40 on July 11, 2016. The Exchange has withdrawn file number SR-BatsBZX-2016-40 and is filing this similar proposal in its place.

<sup>8</sup> The required criteria to meet the Tape B Quoting Tier are: (i) the Member’s NBBO Time in the LMP Security is at least 15% or NBBO Size Time is at least 25%; and (ii) the Member’s Displayed Size Time in the LMP Security is at least 90%. NBBO Time means the average of the percentage of time during regular trading hours during which the Member maintains at least 100 shares at each of the NBB and NBO. NBBO Size Time means the percentage of time during regular trading hours during which there are size-setting quotes at the NBBO on the Exchange. Displayed Size Time means the percentage of time during regular trading hours during which the Member maintains at least 2,500 displayed shares on the bid and separately maintains at least 2,500 displayed shares on the offer that are priced no more than 2% away from the NBB and NBO, respectively.

<sup>9</sup> Tape B securities includes all securities listed on the Exchange, NYSE Arca, Inc., and NYSE MKT LLC.

the first 11 trading days of the month and met the Required Criteria for a different set of 25 LMP Securities in the second 11 trading days of the month. The Exchange is not proposing to amend the Required Criteria.

The Exchange proposes to implement these amendments to its fee schedule effective immediately.

## 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>10</sup> Specifically, the Exchange believes that the proposed rule change is consistent with Section 6(b)(4) and 6(b)(5) of the Act,<sup>11</sup> in that it provides for the equitable allocation of reasonable dues, fees and other charges among its Members and other persons using its facilities. The proposal reflects a change to a competitive pricing structure designed to incent market participants to direct their order flow to the Exchange and enhance market quality in LMP Securities and in Tape B securities. The Exchange believes that the proposed change to require Members to only meet the Required Criteria for at least 50% of trading days in a particular month is equitable and non-discriminatory in that it would apply uniformly to all Members. The Exchange believes that the proposed change is reasonable because the Required Criteria represent stringent quoting standards that can be difficult to meet and trading activity in LMP Securities can vary greatly on a day to day basis. Further, the proposed change is designed to enhance market quality on the Exchange by making the Tape B Quoting Tier more achievable for Members. Making the Tape B Quoting Tier more

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<sup>10</sup> 15 U.S.C. 78f.

<sup>11</sup> 15 U.S.C. 78f(b)(4) and (5).

achievable for Members will incentivize more Members to seek to meet the Tape B Quoting Tier, which will further enhance market quality on the Exchange, to the benefit of all participants. Stated another way, the Exchange believes that the Tape B Quoting Tier enhances market quality on the Exchange in two ways: (i) by incentivizing Members to meet certain quoting standards in LMP Securities designed to narrow spreads, increase size at the inside, and increase liquidity depth on the Exchange in such LMP Securities; and (ii) providing an additional rebate for all of a qualifying Member's orders that add liquidity in Tape B securities will incentivize Members to increase their participation on the Exchange in Tape B securities. By making the Tape B Quoting Tier more achievable for Members, more Members will seek to and will meet the quoting tier and thus enhance liquidity on the Exchange as described above, to the benefit of all market participants. Accordingly, the Exchange also believes that the proposal will act to enhance liquidity and competition across exchanges in LMP Securities and enhance liquidity provision in Tape B securities on the Exchange by providing a rebate reasonably related to such enhanced market quality to the benefit of all investors, thereby promoting the principles discussed in Section 6(b)(5) of the Act.<sup>12</sup>

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.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended. The Exchange does not believe that the changes burden competition, but instead,

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<sup>12</sup> 15 U.S.C. 78f(b)(5).

enhance competition, as these changes are intended to increase the competitiveness of the Exchange as it is designed to draw additional volume to the Exchange. The Exchange notes that it operates in a highly competitive market in which market participants can readily direct order flow to competing venues if the deemed fee structures to be unreasonable or excessive. The proposed changes are generally intended to enhance the rebates in Tape B securities, which is intended to enhance market quality in LMP Securities and Tape B securities. As such, the proposal is a competitive proposal that is intended to add additional liquidity to the Exchange, which will, in turn, benefit the Exchange and all Exchange participants.

(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

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>13</sup> and paragraph (f) of Rule 19b-4 thereunder.<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.

IV. Solicitation of Comments

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<sup>13</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>14</sup> 17 CFR 240.19b-4(f).

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-BatsBZX-2016-41 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 Number SR-BatsBZX-2016-41. 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 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 Number SR-BatsBZX-2016-41 and should be submitted on or before [INSERT DATE 21 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

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

Robert W. Errett  
Deputy Secretary

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<sup>15</sup> 17 CFR 200.30-3(a)(12).

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