



8011-01
SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-79386; File No. SR-BatsBYX-2016-35)

November 23, 2016

Self-Regulatory Organizations; Bats BYX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Make Ministerial and Corrective Changes to Rules 11.9, 11.13, 11.16, 11.22, and 11.27

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 November 16, 2016, Bats BYX Exchange, Inc. (the “Exchange” or “BYX”) 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 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 Substance of the Proposed Rule Change

The Exchange filed a proposal to make ministerial and corrective changes to Exchange Rules 11.9(a)(2), 11.13(b), 11.16(g)(4), 11.22(f), and 11.27(a)(7)(A)(i)2.

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

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).

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 make ministerial and corrective changes to Exchange Rules 11.9(a)(2), 11.13(b), 11.16(g)(4), 11.22(f), and 11.27(a)(7)(A)(i)2. First, the exchange proposes to harmonize the description of BYX Market Orders under Exchange Rule 11.9(a)(2) with the description of an identical order type on the Exchange's affiliate, Bats BZX Exchange, Inc. ("BZX"). Exchange Rule 11.9(a)(2) currently states that a BYX Market Order that is designated as BYX Only⁵ with a time-in-force of Day⁶ will be cancelled if, when reaching the Exchange, it cannot be executed on the System⁷ in accordance with Exchange Rule 11.13(a)(4) unless the reason that such BYX Market Order cannot be executed is because it is entered into the System and the NBO (NBB) is greater (less) than the Upper (Lower) Price Band, in which case such order will be posted by the System to the BYX Book, *and priced* at the Upper (Lower) Price Band, and re-priced as set forth in Rule 11.18(e)(5)(B). This mirrors the description of BZX

⁵ See Exchange Rule 11.9(c)(4).

⁶ See Exchange Rule 11.9(b)(2).

⁷ See Exchange Rule 1.5(aa).

Market Orders under BZX Rule 11.9(a)(2), but for the BZX rule stating that the BZX Market Order in the circumstance described in the text would be posted by the System to the BZX Book, and *displayed* at the Upper (Lower) Price Band. Therefore, in order to make the description of market orders identical under both rules, the Exchange proposes to replace the phrase “and priced” with the term “displayed.”⁸

Second, the Exchange proposed to amend Rule 11.13(b) to correct an incorrect cross reference. Exchange Rule 11.13(b) states that depending on the instructions set by the User⁹ when the incoming order was originally entered, if a market or marketable limit order has not been executed in its entirety pursuant to Exchange Rule 11.13(a) above, the order shall be eligible for additional processing under one or more of the routing options listed under paragraph (a)(3) of Rule 11.13. The reference to paragraph (a)(3) of Rule 11.13 is incorrect as the routing options are listing under paragraph (b)(3) of Rule 11.13. Therefore, the Exchange proposes to replace reference to paragraph (a)(3) with paragraph (b)(3).

Third, the Exchange proposes to amend Rule 11.16(g)(4) to delete an unnecessary cross reference. Exchange Rule 11.16(a)(4) states that “[t]he pass-through of any compensation to a Member in accordance with this subparagraph (g) is unrelated to any other claims for compensation that are made in accordance with, and subject to the limits of, subparagraph (d) of this Rule 11.16.” The Exchange now proposes to delete reference to “11.16” as a specific

⁸ See Securities Exchange Act Release No. 73875 (December 18, 2014), 79 FR 77552 (December 24, 2014) (SR-BATS-2014-068).

⁹ See Exchange Rule 1.5(cc).

reference to the rule is not integral nor necessary to the meaning or application of Rule 11.16 generally.¹⁰

Fourth, the Exchange proposes to amend Rule 11.22(f) to delete a description of the Latency Monitoring data product, which the Exchange ceased to offer in May 2015. The Exchange determined that the customer demand at that time did not warrant the infrastructure and ongoing maintenance expense required to support the product.

Lastly, the Exchange proposes to amend Rule 11.27(a)(7)(A)(i)2. to correct a typographical error by replacing the phrase “one of more” with “one or more”.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act¹¹ in general, and furthers the objectives of Section 6(b)(5) of the Act¹² in particular, in that it is designed to promote just and equitable principles of trade, 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 believes the proposed changes promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system because they seek to correct an incorrect cross-reference and typographical error, harmonize identical rules with the Exchange’s affiliates, as well as eliminate a reference to a market data product that is no longer provided. The Exchange notes the changes to Exchange Rules 11.9(a)(2), 11.13(b), 11.16(a)(4), and 11.27(a)(7)(A)(i)2.

¹⁰ Removal of the rule reference would also harmonize the rule language with similar rule of the Exchange’s affiliates, Bats EDGA Exchange, Inc. and Bats EDGX Exchange, Inc. SR-Bats-EDGX-2016-65 and SR-BatsEDGA-2016-28.

¹¹ 15 U.S.C. 78f(b).

¹² 15 U.S.C. 78f(b)(5).

are ministerial and do not alter the applications of each rule. In addition, the deletion of references to the Latency Monitoring Data product removes references to a product the Exchange no longer provides and that the Exchange is not required by any rule or regulation to offer. As such, the proposed amendments would foster cooperation and coordination with persons engaged in facilitating transactions in securities and would remove impediments to and perfect the mechanism of a free and open market and a national market system.

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

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. On the contrary, the proposed rule change will have no impact on competition as it is simply makes ministerial and corrective changes while not altering the meaning or application of each rule.

(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

Because the foregoing proposed rule change does not: (A) significantly affect the protection of investors or the public interest; (B) impose any significant burden on competition; and (C) by its terms, become operative for 30 days from the date on which it was filed or such shorter time as the Commission may designate it has become effective pursuant to Section 19(b)(3)(A) of the Act¹³ and paragraph (f)(6) of Rule 19b-4 thereunder,¹⁴ the Exchange has

¹³ 15 U.S.C. 78s(b)(3)(A).

designated this rule filing as non-controversial. The Exchange has given the Commission written notice of its intent to file the proposed rule change, along with a brief description and 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.

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: (1) necessary or appropriate in the public interest; (2) for the protection of investors; or (3) 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 proposal 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 No. SR-BatsBYX-2016-35 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 No. SR-BatsBYX-2016-35. This file number should be

¹⁴ 17 CFR 240.19b-4.

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 am and 3:00 pm. 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 No. SR-BatsBYX-2016-35 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.¹⁵

Robert W. Errett
Deputy Secretary

¹⁵ 17 CFR 200.30-3(a)(12).

[FR Doc. 2016-28776 Filed: 11/29/2016 8:45 am; Publication Date: 11/30/2016]