

December 12, 2014

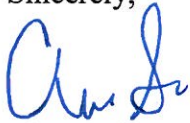
Secretary  
Securities and Exchange Commission  
100 F Street, N.E.  
Washington, DC 20549-1090

Re: File No. SR-EDGX-2014-25, Amendment No. 2

To Whom It May Concern:

On October 30, 2014, EDGA Exchange, Inc. (the “Exchange” or “EDGA”) filed with the Securities and Exchange Commission (the “SEC” or “Commission”) a proposed rule change to establish a new market data product called the BATS One Feed. On November 14, 2014, the Exchange submitted Amendment No. 1 to SR-EDGX-2014-25, which amended and replaced the original proposal in its entirety. The proposed rule change and Amendment No. 1 were published for comment in the Federal Register on November 14, 2014. This Amendment No. 2 also provides additional statements with regard to latency and cost of the BATS One Feed. In order to provide notice for public review of this Amendment No. 2, in addition to posting to the Exchange’s public website, the Exchange is filing this Amendment No. 2 as a comments letter, with all changes made from Amendment No.1 tracked, via the Commission’s website.

Sincerely,



Chris Solgan  
Assistant General Counsel

1. Text of the Proposed Rule Change

(a) Pursuant to the provisions of Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> EDGX Exchange, Inc. (“EDGX” or the “Exchange”) previously submitted a rule filing (SR-EDGX-2014-25) on October 30, 2014 with the Securities and Exchange Commission (“Commission”), which proposed to establish a new market data product called the BATS One Feed. On November 14, 2014, the Exchange submitted Amendment No. 1 to SR-EDGX-2014-25, which amended and replaced the original proposal in its entirety. The proposed rule change and Amendment No. 1 were published for comment in the Federal Register on November 14, 2014.<sup>3</sup> This Amendment No. 2 also provides additional statements with regard to latency and cost of the BATS One Feed.

The text of the proposed BATS One Feed is attached as Exhibit 5 and is available on the Exchange’s website at [www.directedge.com](http://www.directedge.com), at the Exchange’s principal office and at the Public Reference Room of the Commission.

(b) Not applicable.

(c) Not applicable.

2. Procedures of the Self-Regulatory Organization

The Exchange submits the proposed rule change pursuant to authority delegated by the Board of Directors of the Exchange on February 11, 2014. Exchange staff will advise the Exchange’s Board of Directors of any action taken pursuant to delegated

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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> See Securities Exchange Act Release No. 73597 (November 14, 2014), 79 FR 69180 (November 20, 2014).

authority. No other action is necessary for the filing of the rule change and, therefore, the Exchange's internal procedures with respect to the proposed change are complete.

The persons on the Exchange staff prepared to respond to questions and comments on the proposed rule change are:

Eric Swanson  
Executive Vice President and  
General Counsel  
(913) 815-7000

Chris Solgan  
Regulatory Counsel  
(201) 942-8321

3. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(a) Purpose

The Exchange proposes to establish a new market data product called the BATS One Feed. As described more fully below, the BATS One Feed is a data feed that will disseminate, on a real-time basis, the aggregate best bid and offer ("BBO") of all displayed orders for securities traded on EDGX and its affiliated exchanges<sup>4</sup> (collectively, the "BATS Exchanges") and for which the BATS Exchanges report quotes under the Consolidated Tape Association ("CTA") Plan or the Nasdaq/UTP Plan.<sup>5</sup> The

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<sup>4</sup> EDGX's affiliated exchanges are EDGA Exchange, Inc. ("EDGA"), BATS Exchange, Inc. ("BATS"), and BATS Y-Exchange, Inc. ("BYX"). On January 31, 2014, Direct Edge Holdings LLC ("DE Holdings"), the former parent company of the Exchange and EDGA, completed its business combination with BATS Global Markets, Inc., the parent company of BATS and BYX. See Securities Exchange Act Release No. 71449 (January 30, 2014), 79 FR 6961 (February 5, 2014) (SR-EDGX-2013-43). Upon completion of the business combination, DE Holdings and BATS Global Markets, Inc. 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."

<sup>5</sup> The Exchange understands that each of the BATS Exchanges will separately file substantially similar proposed rule changes with the Commission to implement the BATS One Feed and its related fees.

BATS One Feed will also contain the individual last sale information for EDGX and each of its affiliated exchanges. In addition, the BATS One Feed will contain optional functionality which will enable recipients to elect to receive aggregated two-sided quotations from the BATS Exchanges for up to five (5) price levels.

The BATS One Feed offers market data vendors and purchasers a suitable alternative to the use of consolidated data where consolidated data are not required to be purchased or displayed. The Exchange proposes to offer the BATS One Feed voluntarily in response to demand from vendors, and subscribers that are interested in receiving the aggregate BBO and last sale information from the BATS Exchanges as part of a single data feed. Specifically, BATS One can be used by industry professionals and retail investors looking for a cost effective, easy-to-administer, high quality market data product with the characteristics of the BATS One Feed.

The Exchange believes that the BATS One Feed would provide high-quality, comprehensive last sale and BBO data for the BATS Exchanges in a unified view and respond to subscriber demand for such a product. The Exchange notes that an anticipated end user might use the BATS One Feed for purposes of identifying an indicative price of Tape A, B, and C securities through leveraging the depth and breadth of BATS Exchanges without having to purchase consolidated data and thus it would not be a latency-sensitive product. The Exchange does not anticipate that an end user would, or could, use the BATS One Feed data for purposes of making order-routing or trading decisions. Rather, the Exchange notes that under Rule 603 of Regulation NMS, the BATS One Feed could not be substituted for consolidated data in all instances in which

consolidated data is used and certain subscribers would still be required to purchase consolidated data for trading and order-routing purposes.<sup>6</sup>

Finally, the proposed BATS One Feed would provide investors with new options for receiving market data and compete with similar market data products ~~proposed~~currently offered by the New York Stock Exchange, Inc. (“NYSE”) and ~~those currently offered by~~ the Nasdaq Stock Market LLC (“Nasdaq”).<sup>7</sup> The provision of new options for investors to receive market data was a primary goal of the market data amendments adopted by Regulation NMS.<sup>8</sup>

#### Description of the BATS One Feed

The BATS One Feed will contain the aggregate BBO of the BATS Exchanges for all securities that are traded on the BATS Exchanges and for which the BATS Exchanges report quotes under the CTA Plan or the Nasdaq/UTP Plan. The aggregate BBO would

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<sup>6</sup> 17 CFR § 242.603(c).

<sup>7</sup> See Nasdaq Basic, <http://www.nasdaqtrader.com/Trader.aspx?id=NASDAQbasic> (last visited May 29, 2014) (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”)); 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); 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).

<sup>8</sup> See Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, at 37503 (June 29, 2005) (Regulation NMS Adopting Release).

include the total size of all orders at the BBO available on all BATS Exchanges.<sup>9</sup> The BATS One Feed would also disseminate last sale information for each of the individual BATS Exchanges (collectively with the aggregate BBO, the “BATS One Summary Feed”). The last sale information will include the price, size, time of execution, and individual BATS Exchange on which the trade was executed. The last sale message will also include the cumulative number of shares executed on all BATS Exchanges for that trading day. The Exchange will disseminate the aggregate BBO of the BATS Exchanges and last sale information through the BATS One Feed no earlier than each individual BATS Exchange provides its BBO and last sale information to the processors under the CTA Plan or the Nasdaq/UTP Plan.

The BATS One Feed would also consist of Symbol Summary, Market Status, Retail Liquidity Identifier on behalf of BYX, Trading Status, and Trade Break messages. The Symbol Summary message will include the total executed volume across all BATS Exchanges. The Market Status message is disseminated to reflect a change in the status of one of the BATS Exchanges. For example, the Market Status message will indicate whether one of the BATS Exchanges is experiencing a systems issue or disruption and quotation or trade information from that market is not currently being disseminated via the BATS One Feed as part of the aggregated BBO. The Market Status message will also indicate where BATS Exchange is no longer experiencing a systems issue or disruption to properly reflect the status of the aggregated BBO.

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<sup>9</sup> The Exchange notes that quotations of odd lot size, which is generally less than 100 shares, are included in the total size of all orders at a particular price level in the BATS One Feed but are currently not reported by the BATS Exchanges to the consolidated tape.

The Retail Liquidity Identifier indicator message will be disseminated via the BATS One Feed on behalf of the BYX only pursuant to BYX's Retail Price Improvement ("RPI") Program.<sup>10</sup> The Retail Liquidity Identifier indicates when RPI interest priced at least \$0.001 better than BYX's Protected Bid or Protected Offer for a particular security is available in the System. The Exchange proposes to disseminate the Retail Liquidity Indicator via the BATS One Feed in the same manner as it is currently disseminated through consolidated data streams (i.e., pursuant to the Consolidated Tape Association Plan/Consolidated Quotation Plan, or CTA/CQ, for Tape A and Tape B securities, and the Nasdaq UTP Plan for Tape C securities) as well as through proprietary BYX data feeds. The Retail Liquidity Identifier will reflect the symbol and the side (buy or sell) of the RPI interest, but does not include the price or size of the RPI interest. In particular, like CQ and UTP quoting outputs, the BATS One Feed will include a field for codes related to the Retail Price Improvement Identifier. The codes indicate RPI interest that is priced better than BYX's Protected Bid or Protected Offer by at least the minimum level of price improvement as required by the Program.

The Trade Break message will indicate when an execution on a BATS Exchange is broken in accordance with the individual BATS Exchange's rules.<sup>11</sup> The Trading Status message will indicate the current trading status of a security on each individual

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<sup>10</sup> For a description of BYX's RPI Program, see BYX Rule 11.24. See also Securities Exchange Act Release No. 68303 (November 27, 2012), 77 FR 71652 (December 3, 2012) (SR-BYX-2012-019) (Order Granting Approval of Proposed Rule Change, as Modified by Amendment No. 2, to Adopt a Retail Price Improvement Program); Securities Exchange Act Release No. 67734 (August 27, 2012), 77 FR 53242 (August 31, 2012) (SR-BYX-2012-019) (Notice of Filing of Proposed Rule Change to Adopt a Retail Price Improvement Program).

<sup>11</sup> See, e.g., Exchange and EDGA Rule 11.13, Clearly Erroneous Executions, and BATS and BYX Rule 11.17, Clearly Erroneous Executions.

BATS Exchange. For example, a Trading Status message will be sent when a short sale price restriction is in effect pursuant to Rule 201 of Regulation SHO (“Short Sale Circuit Breaker”),<sup>12</sup> or the security is subject to a trading halt, suspension or pause declared by the listing market. A Trading Status message will be sent whenever a security’s trading status changes.

Optional Aggregate Depth of Book. The BATS One Feed will also contain optional functionality which will enable recipients to receive two-sided quotations from the BATS Exchanges for 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 option of the BATS One Feed will include a two-sided quote and the number of shares available to buy and sell at that particular price level.<sup>13</sup>

The Exchange Is Not The Exclusive Distributor of the BATS One Feed

The Exchange has taken into consideration its affiliated relationship with EDGA, BYX, and BZX in its design of the BATS One Feed to assure that vendors would be able to offer a similar product on the same terms as the Exchange, both from the perspective of latency and cost. As discussed above, the Exchange proposes to offer the BATS One Feed voluntarily in response to demand from vendors, and subscribers that are interested in receiving the aggregate BBO and last sale information from the BATS Exchanges as part of a single data feed. Specifically, BATS One can be used by industry professionals

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<sup>12</sup> 17 CFR 242.200(g); 17 CFR 242.201

<sup>13</sup> Recipients who do not elect to receive the BATS One Premium Feed will receive the aggregate BBO of the BATS Exchanges under the BATS Summary Feed, which, unlike the BATS Premium Feed, would not delineate the size available at the BBO on each individual BATS Exchange.



and retail investors looking for a cost effective, easy-to-administer, high quality market data product with the characteristics of the BATS One Feed. The BATS One Feed would help protect a free and open market by providing vendors and subscribers additional choices in receiving this type of market data, thus promoting competition and innovation.

With respect to latency, the path for distribution by the Exchange of BATS One Feed would not be faster than a vendor that independently created a BATS One-like product could distribute its own product. As such, the proposed BATS One data feed is a data product that a competing vendor could create and sell without being in a disadvantaged position relative to the Exchange. In recognition that the Exchange is the source of its own market data and is affiliated with EDGA, BATS and BYX, the Exchange represents that the source of the market data it would use to create the proposed BATS One Feed is available to other vendors. Specifically, the Exchange would use the following data feeds to create the proposed BATS One Feed, each of which is available to other vendors: the Exchange's EdgeBook Depth feed, the EdgeBook Depth feed for EDGA, the BYX PITCH Feed, and the BATS PITCH Feed. The BATS Exchanges will continue to make available these individual underlying feeds, and thus, the source of the market data it would use to create the proposed BATS One feed is the same as the source available to other vendors.

In order to create the BATS One Feed, the system creating and supporting the BATS One Feed would need to receive the individual data feeds from each BATS Exchange and, in turn, aggregate and summarize that data to create the BATS One Feed and then distribute it to end users. This is the same process a competing vendor would undergo should it create a market data product similar to the BATS One Feed to

distribute to its end users. In addition, a competing vendor could locate its servers in the same facilities as the system creating and supporting the BATS One Feed, and, therefore, could receive the individual data feeds from each BATS Exchange at the same time the system creating and supporting the BATS One Feed would for it to create the BATS One Feed. Therefore, a competing vendor could obtain the underlying data feeds from the BATS Exchanges on the same latency basis as the system that would be performing the aggregation and consolidation of the proposed BATS One Feed and provide the same type of product to its customers with the same latency they could achieve by purchasing the BATS One Feed from the Exchange. As such, the Exchange would not have any unfair advantage over competing vendors with respect to obtaining data from the individual BATS Exchanges, in fact, the technology supporting the BATS One Feed would similarly need to obtain the Exchange's data feed as well and even this connection would be on a level playing field with a competing vendor located at the same facility as the Exchange. The Exchange has designed the BATS One data feed so that it would not have a competitive advantage over a competing vendor with respect to the speed of access to those underlying data feeds. Likewise, the BATS One data feed would not have a speed advantage vis-à-vis competing vendors with respect to access to end user customers, whether those end users are also located in the same data center or not.

With regard to cost, the Exchange will file a separate rule filing with the Commission to establish fees for BATS One which would be designed to ensure that vendors could compete with the Exchange by creating a similar product as the BATS One Feed. The pricing the Exchange would charge for the BATS One Feed would not be lower than the cost to a vendor creating a competing product, including the cost of

receiving the underlying data feeds. The pricing the Exchange would charge clients for the BATS One Feed compared to the cost of the individual data feeds from the BATS Exchanges would enable a vendor to receive the underlying data feeds and offer a similar product on a competitive basis and with no greater cost than the Exchange. To ensure a vendor can compete with the Exchange by creating the same product as the BATS One Feed and selling it to their clients, the Exchange would charge its clients for the BATS One Feed an amount that is no less than the cost to a market data vendor to obtain all the underlying feeds, plus an amount to be determined that would reflect the value of the aggregation and consolidation function. For these reasons, the Exchange believes that vendors could readily offer a product similar to the BATS One Feed on a competitive basis at a similar cost.

#### Implementation Date

The Exchange anticipates making available the BATS One feed as soon as practicable after approval of the proposed rule change by the Commission and the effectiveness of a rule filing to establish the fees for BATS One.<sup>14</sup>

#### (b) Statutory Basis

The Exchange believes that the proposed BATS One Feed is consistent with Section 6(b) of the Act,<sup>15</sup> in general, and furthers the objectives of Section 6(b)(5) of the Act,<sup>16</sup> in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and

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<sup>14</sup> The Exchange intends to file a separate proposal establishing the fees for BATS One.

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

<sup>16</sup> 15 U.S.C. 78f(b)(5).

perfect the mechanism of a free and open market and a national market system, and to protect investors and the public interest, and that it is not designed to permit unfair discrimination among customers, brokers, or dealers. This proposal is in keeping with those principles in that it promotes increased transparency through the dissemination of the BATS One Feed. 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 market data as requested by market data vendors and purchasers that expressed an interest in exchange-only data for instances where consolidated data is no longer required to be purchased and displayed. The proposed rule change would benefit investors by facilitating their prompt access to real-time last sale information and best-bid-and-offer information contained in the BATS One Feed.

The Exchange also believes that the proposed rule change is consistent with Section 11(A) of the Act<sup>17</sup> 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,<sup>18</sup> 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.

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<sup>17</sup> 15 U.S.C. 78k-1.

<sup>18</sup> See 17 CFR 242.603.

In adopting Regulation NMS, the Commission granted self-regulatory organizations and broker-dealers increased authority and flexibility to offer new and unique market data to consumers of such data. It was believed that this authority would expand the amount of data available to users and consumers of such data and also spur innovation and competition for the provision of market data. The Exchange believes that the data products proposed herein are precisely the sort of market data products that the Commission envisioned when it adopted Regulation NMS. The Commission concluded that Regulation NMS – by lessening regulation of the market in proprietary data – would itself further the Act’s goals of facilitating efficiency and competition:

[E]fficiency is promoted when broker-dealers who do not need the data beyond the prices, sizes, market center identifications of the NBBO and consolidated last sale information are not required to receive (and pay for) such data. The Commission also believes that efficiency is promoted when broker-dealers may choose to receive (and pay for) additional market data based on their own internal analysis of the need for such data.<sup>19</sup>

By removing “unnecessary regulatory restrictions” on the ability of exchanges to sell their own data, Regulation NMS advanced the goals of the Act and the principles reflected in its legislative history.

If the free market should determine whether proprietary data is sold to broker-dealers at all, it follows that the price at which such data is sold should be set by the market as well. The BATS One Feed is precisely the sort of market data product that the Commission envisioned when it adopted Regulation NMS.

The BATS One Feed would be distributed and purchased on a voluntary basis, in that neither the BATS Exchanges nor market data distributors are required by any rule or

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<sup>19</sup> See Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496 (June 29, 2005) (File No. S7-10-04).

regulation to make this data available. Accordingly, distributors and users can discontinue use at any time and for any reason, including due to an assessment of the reasonableness of fees charged.

The Exchange believes that the proposed BATS One Feed will offer an alternative to the use of consolidated data products and proprietary data products offered by the NYSE and Nasdaq. Nasdaq Basic is a product that includes two feeds, QBBO, which provides BBO information for all U.S. exchange-listed securities on Nasdaq and NLS Plus, which provides last sale data as well as consolidated volume from the following Nasdaq OMX markets for U.S. exchange-listed securities: Nasdaq, FINRA/Nasdaq TRF,<sup>20</sup> Nasdaq OMX BX, and Nasdaq OMX PSX.<sup>21</sup> According to Nasdaq, seven vendors and more than 1,000 firms subscribe to Nasdaq Basic, including 9 out of 10 of the largest banks.<sup>22</sup>

Likewise, the NYSE ~~has proposed~~offers NYSE BQT, which would include the BBO and last sale information for the NYSE, NYSE Arca, and NYSE MKT.<sup>23</sup> The

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<sup>20</sup> See Nasdaq Basic, <http://www.nasdaqtrader.com/Trader.aspx?id=NASDAQBASIC> (last visited May 29, 2014) (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 TRF).

<sup>21</sup> See 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).

<sup>22</sup> See Nasdaq Basic, Doing More with Less, available at <http://www.brainshark.com/nasdaqomx/vu?pi=zG8z33O6ozAgBpz0&tx=preview&preview=1> and <http://www.nasdaqtrader.com/Trader.aspx?id=NASDAQBASIC#vendors>.

<sup>23</sup> 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

Exchange believes the BATS One Feed will offer a competitive alternative to the existing Nasdaq Basic ~~product~~ and ~~the proposed~~ NYSE ~~product~~products.

In addition, the proposal would not permit unfair discrimination because the product 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 purchase one or more of the individual data feeds offered by the BATS Exchanges would be able to do so.

In addition, the Exchange does not believe that the proposal would permit unfair discrimination among customers, brokers, or dealers and thus is consistent with the Act because the Exchange will be offering the product on terms that a competing vendor could offer a competing product. Specifically, the proposed data feed does not represent Exchange core data, but rather a new product that represents an aggregation and consolidation of existing, previously filed individual market data products of the BATS Exchanges. As such, a competing vendor could similarly obtain the underlying data feeds and perform a similar aggregation and consolidation function to create the same data product with the same latency and cost as the Exchange.

The Exchange has taken into consideration its affiliated relationship with EDGA, BYX, and BZX in its design of the BATS One Feed to assure that vendors would be able to offer a similar product on the same terms as the Exchange, both from the perspective of latency and cost. As discussed above, the Exchange proposes to offer the BATS One Feed voluntarily in response to demand from vendors, and subscribers that are interested

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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).

in receiving the aggregate BBO and last sale information from the BATS Exchanges as part of a single data feed. Specifically, BATS One can be used by industry professionals and retail investors looking for a cost effective, easy-to-administer, high quality market data product with the characteristics of the BATS One Feed. The BATS One Feed would help protect a free and open market by providing vendors and subscribers additional choices in receiving this type of market data, thus promoting competition and innovation.

With respect to latency, the path for distribution by the Exchange of BATS One Feed would not be faster than a vendor that independently created a BATS One-like product could distribute its own product. As such, the proposed BATS One data feed is a data product that a competing vendor could create and sell without being in a disadvantaged position relative to the Exchange. In recognition that the Exchange is the source of its own market data and is affiliated with EDGA, BATS and BYX, the Exchange represents that the source of the market data it would use to create the proposed BATS One Feed is available to other vendors. Specifically, the Exchange would use the following data feeds to create the proposed BATS One Feed, each of which is available to other vendors: the Exchange's EdgeBook Depth feed, the EdgeBook Depth feed for EDGA, the BYX PITCH Feed, and the BATS PITCH Feed. The BATS Exchanges will continue to make available these individual underlying feeds, and thus, the source of the market data it would use to create the proposed BATS One feed is the same as the source available to other vendors.

In order to create the BATS One Feed, the ~~Exchange will~~system creating and supporting the BATS One Feed would need to receive the individual data feeds from each BATS Exchange and, in turn, aggregate and summarize that data to create the BATS



One Feed. and then distribute it to end users. This is the same process a competing vendor would undergo should it create a market data product similar to the BATS One Feed to distribute to its end users. In addition, the a competing vendor could locate its servers ~~of most competing vendors are likely located~~ in the same facilities as the Exchange system creating and supporting the BATS One Feed, and, therefore, should could receive the individual data ~~feed~~ feeds from each BATS Exchange ~~on or~~ about at the same time the Exchange system creating and supporting the BATS One Feed would for it to create the BATS One Feed. Therefore, a competing vendor ~~that is located in the same facilities as the Exchange~~ could obtain the underlying data feeds from the BATS Exchanges on the same latency basis as the system that would be performing the aggregation and consolidation of the proposed BATS One Feed and provide the same type of product to its customers with the same latency they could achieve by purchasing the BATS One Feed from the Exchange. As such, the Exchange would not have any unfair advantage over competing vendors with respect to obtaining data from the individual BATS Exchanges, in fact, the technology supporting the BATS One Feed would similarly need to obtain the Exchange's data feed as well and even this connection would be on a level playing field with a competing vendor located at the same facility as the Exchange. The Exchange has designed the BATS One data feed so that it would not have a competitive advantage over a competing vendor with respect to the speed of access to those underlying data feeds. Likewise, the BATS One data feed would not have a speed advantage vis-à-vis competing vendors ~~located in the same data center as the Exchange~~ with respect to access to end user customers, whether those end users are also located in the same data center or not.

With regard to cost, the Exchange will file a separate rule filing with the Commission to establish fees for BATS One which would be designed to ensure that vendors could compete with the Exchange by creating a similar product as the BATS One Feed. The pricing the Exchange would charge for the BATS One Feed would not be lower than the cost to a vendor creating a competing product, including the cost of receiving the underlying data feeds ~~and of maintaining servers in the same facility as the Exchange to receive the data feeds with no greater latency than the Exchange.~~ The pricing the Exchange would charge clients for the BATS One Feed compared to the cost of the individual data feeds from the BATS Exchanges would enable a vendor to receive the underlying data feeds and offer a similar product on a competitive basis and with no greater latency cost than the Exchange. ~~The Distribution Fees that~~ To ensure a vendor can compete with the Exchange intends by creating the same product as the BATS One Feed and selling it to propose their clients, the Exchange would charge its clients for the BATS One Feed would be equal an amount that is no less than the cost to the combined fee of subscribing a market data vendor to each individual data feed,<sup>24</sup> ~~therefore, enabling a vendor to create a competing product based on the individual data~~ obtain all the underlying feeds and charge its clients a fee, plus an amount to be determined that it believes reflects would reflect the value of the aggregation and consolidation function ~~that is competitive with BATS One Feed pricing. The Exchanges believes that the incremental cost to a particular vendor for aggregation can be supported by the vendor's~~

<sup>24</sup> ~~\_\_\_\_\_ The combined external distribution fee for the individual data feeds of the BATS Exchanges is \$12,500.00 per month. The monthly external distribution fee is \$2,500 per month for the EdgeBook Depth feed for the Exchange, \$2,500 per month for the EdgeBook Depth feed for EDGA, \$2,500 for the BYX PITCH Feed, and \$5,000 for the BATS PITCH Feed.~~

~~revenue opportunity and may be inconsequential if such vendor already has systems in place to perform these functions as part of creating its proprietary market data products and is able to allocate these costs over numerous products and customer relationships.~~

For these reasons, the Exchange believes that vendors could readily offer a product similar to the BATS One Feed on a competitive basis at a similar cost.

4. 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. Because other exchanges already offer similar products,<sup>25</sup> the Exchange's proposed BATS One Feed will enhance competition. Specifically, the BATS One Feed was developed to compete with similar market data products offered by Nasdaq and ~~proposed by~~ the NYSE.<sup>26</sup> The BATS One Feed will foster competition by providing an alternative market data product to those offered by Nasdaq and the NYSE. This proposed new data feed provides investors with new options for receiving market data, which was a primary goal of the market data amendments adopted by Regulation NMS.<sup>27</sup>

The proposed BATS One Feed would enhance competition by offering a market data product that is designed to compete directly with similar products offered by the NYSE and Nasdaq. Nasdaq Basic is a product that includes two feeds, QBBO, which provides BBO information for all U.S. exchange-listed securities on Nasdaq and NLS

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<sup>25</sup> See supra note ~~6~~7.

<sup>26</sup> Id.

<sup>27</sup> See Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, at 37503 (June 29, 2005) (Regulation NMS Adopting Release).

Plus, which provides last sale data as well as consolidated volume from the following Nasdaq OMX markets for U.S. exchange-listed securities: Nasdaq, FINRA/Nasdaq TRF,<sup>28</sup> Nasdaq OMX BX, and Nasdaq OMX PSX.<sup>29</sup> Likewise, NYSE BQT includes BBO and last sale information for the NYSE, NYSE Arca, and NYSE MKT.<sup>30</sup> As a result, Nasdaq Basic and NYSE BQT comprise a significant view of the market on any given day and both include data from multiple trading venues. As the BATS Exchanges are consistently one of the top exchange operators by market share for U.S. equities trading, excluding opening and closing auction volume, the data included within the BATS One Feed will provide investors with an alternative to Nasdaq Basic and NYSE BQT and a new option for obtaining a broad market view, consistent with the primary goal of the market data amendments adopted by Regulation NMS.<sup>31</sup>

The Exchange believes the BATS One Feed will further enhance competition by providing External Distributors with a data feed that allows them to more quickly and

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<sup>28</sup> See Nasdaq Basic, <http://www.nasdaqtrader.com/Trader.aspx?id=NASDAQBasic> (last visited May 29, 2014) (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 TRF).

<sup>29</sup> See 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).

<sup>30</sup> See Securities Exchange Act Release No. 72750 (August 4, 2014), 79 FR 46494 (August 8, 2014) (SR-NYSE-2014-40) (Notice of Filing of Proposed Rule Change Establishing the NYSE 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).

<sup>31</sup> See Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, at 37503 (June 29, 2005) (Regulation NMS Adopting Release).

efficiently integrate into their existing products. Today, Distributors subscribe to various market data products offered by single exchanges and resell that data, either separately or in the aggregate, to their subscribers as part of their own market data offerings.

Distributors may incur administrative costs when consolidating and augmenting the data to meet their subscriber's need. Consequently, many External Distributors will simply choose to not take the data because of the effort and cost required to aggregate data from separate feeds into their existing products. Those same Distributors have expressed interest in the BATS One Feed so that they may easily incorporate aggregated or summarized BATS Exchange data into their own products without themselves incurring the costs of the repackaging and aggregating the data it would receive by subscribing to each market data product offered by the individual BATS Exchanges. The Exchange, therefore, believes that by providing market data that encompasses combined data from affiliated exchanges, the Exchange enables certain External Distributors with the ability to compete in the provision of similar content with other External Distributors, where they may not have done so previously if they were required to subscribe to the depth-of-book feeds from each individual BATS Exchange.

Although the Exchange considers the acceptance of the BATS One Feed by External Distributors as important to the success of the product, depending on their needs, External Distributors may choose not to subscribe to the BATS One Feed and may rather receive the BATS Exchange individual market data products and incorporate them into their specific market data products. For example, the BATS Premium Feed provides depth-of-book information for up to five price levels while each of the BATS Exchange's individual data feeds offer complete depth-of-book and are not limited to five price

levels.<sup>32</sup> Those subscribers who wish to view the complete depth-of-book from each individual BATS Exchange may prefer to subscribe to one or all of individual BATS Exchange depth-of-book data feeds instead of the BATS One Feed. The BATS One Feed simply provides another option for Distributors to choose from when selecting a product that meets their market data needs. Subscribers who seek a broader market view but do not need complete depth-of-book may select the BATS One Feed while subscribers that seek the complete depth-of-book information may subscribe to the depth-of-book feeds of each individual BATS Exchanges.

Exchange Not the Exclusive Distributor of BATS One. 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 would not be the exclusive distributor of the aggregated and consolidated information that would compose the proposed BATS One Feed. Vendors would be able, if they chose, to create a data feed with the same information as the BATS One Feed and distribute it to their clients on a level-playing field with respect to latency and cost as compared to the Exchange's proposed BATS One Feed. The pricing the Exchange would charge for the BATS One Feed would not be lower than the cost to a vendor of receiving the underlying data feeds and of maintaining servers in the same facility as the Exchange to receive the data feeds with no greater latency than the Exchange. In addition, the pricing the Exchange would charge clients for the BATS One Feed compared to the cost of the individual data feeds from the BATS Exchanges would enable a vendor to receive the

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<sup>32</sup> See EDGA Rule 13.8, EDGX Rule 13.8, BZX Rule 11.22(a) and (c), and BYX Rule 11.22 (a) and (c) for a description of the depth of book feeds offered by each of the BATS Exchanges.

underlying data feeds and offer a similar product on a competitive basis and with no greater latency than the Exchange.

Latency. The BATS One Feed is not intended to compete with similar products offered by External Distributors. Rather, it is intended to assist External Distributors in incorporating aggregated and summarized data from the BATS Exchanges into their own market data products that are provided to the end user. Therefore, Distributors will receive the data, who will, in turn, make available BATS One Feed to their end users, either separately or as incorporated into the various market data products they provide. As stated above, Distributors have expressed a desire for a product like the BATS One Feed so that they may easily incorporate aggregated or summarized BATS Exchange data into their own products without themselves incurring the administrative costs of repackaging and aggregating the data it would receive by subscribing to each market data product offered by the individual BATS Exchanges.

Notwithstanding the above, the Exchange believes that External Distributors may create a product similar to BATS One Feed based on the market data products offered by the individual BATS Exchanges with no greater latency than the Exchange. As discussed above, in order to create the BATS One Feed, the ~~Exchange will~~system creating and supporting the BATS One feed would need to receive the individual data feeds from each BATS Exchange and, in turn, aggregate and summarize that data to create the BATS One Feed and then distribute it to end users. This is the same process an External Distributor would undergo should it create a market data product similar to the BATS One Feed to distribute to its end users. In addition, ~~the servers of most~~an External ~~Distributors are~~ likely locatedDistributor could locate its servers in the same facilities as the Exchange,

and, therefore, should receive the individual data ~~feed~~feeds from each BATS Exchange ~~on or about~~at the same time the ~~Exchange~~Exchange's system would for it to create the BATS One Feed.

The Exchange has designed the BATS One data feed so that it would not have a competitive advantage over a competing vendor with respect to the speed of access to those underlying data feeds. Likewise, the BATS One data feed would not have a speed advantage vis-à-vis competing vendors located in the same data center as the Exchange with respect to access to end user customers, whether those end users are also located in the same data center or not. Therefore, the Exchange believes that it will not incur any potential latency advantage that will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

Cost. With regard to cost, the Exchange will file a separate rule filing with the Commission to establish fees for BATS One that would be designed to ensure that vendors could compete with the Exchange by creating a similar product as the BATS One Feed. The pricing the Exchange would charge for the BATS One Feed would not be lower than the cost to a vendor creating a competing product, including the cost of receiving the underlying data feeds. The pricing the Exchange would charge clients for the BATS One Feed compared to the cost of the individual data feeds from the BATS Exchanges would enable a vendor to receive the underlying data feeds and offer a similar product on a competitive basis and with no greater ~~latency~~cost than the Exchange. ~~The Distribution Fees that~~ To ensure a vendor can compete with the Exchange ~~proposes by creating the same product as the BATS One Feed and selling it to their clients, the Exchange would charge its clients~~ are equal to the combined fee



~~of subscribing an amount that is no less than the cost to each individual a market data feed,<sup>33</sup> therefore, enabling a vendor to create a competing product based on the individual data obtain all the underlying feeds and charge its clients a fee, plus an amount to be determined that it believes reflects would reflect the value of the aggregation and consolidation function that is competitive with BATS One Feed pricing. The Exchanges believes that the incremental cost to a particular vendor for aggregation can be supported by the vendor's revenue opportunity and may be inconsequential if such vendor already has systems in place to perform these functions as part of creating its proprietary market data products and is able to allocate these costs over numerous products and customer relationships.~~ For these reasons, the Exchange believes that vendors could readily offer a product similar to the BATS One Feed on a competitive basis at a similar cost.

5. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

A similar proposed rule change was initially filed with the Commission on July 14, 2014 and published for comment in the Federal Register on August 1, 2014.<sup>34</sup> The Commission received no comment letters in response to that proposed rule change. However, three letters were submitted to the Commission commenting on a companion BZX and EDGA filings that proposed to offer the same feed.<sup>35</sup> On September 15, 2014,

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<sup>33</sup> ~~See supra note 22.~~

<sup>34</sup> See Securities Exchange Act Release No. 72691 (July 28, 2014), 79 FR 44892 (August 1, 2014) (SR-EDGX-2014-19).

<sup>35</sup> But see Letter from Sal Arnuik and Joe Saluzzi, Themis Trading LLC, to Elizabeth M. Murphy, Secretary, Commission, dated August 21, 2014 (SR-BATS-2014-028) ("Themis Letter"); Letter from Ira D. Hammerman, General Counsel, SIFMA, to Kevin O'Neill, Deputy Secretary, Commission, dated August 22, 2014 (SR-BATS-2014-028) ("SIFMA Letter") (letters commenting on companion

the Commission extended its review period until October 30, 2014.<sup>36</sup> On October 29, 2014, the Exchange withdrew the initial proposed rule change. The points raised by the Themis Letter and Shatto Letter are either not responsive to the issues raised in the proposal or aimed at existing elements of U.S. market structure that have been previously approved by the Commission.

The thrust of the SIFMA Letter is aimed at the proposed fees which are being removed from this proposed rule change and are to be filed with the Commission via a separate rule filing. While the SIFMA Letter correctly states that the Exchange has marketed the BATS One Feed since August 1, 2014, the SIFMA Letter incorrectly asserts that the Exchange has offered the BATS One Feed since that same date. All of the Exchange's marketing materials have included statements that the BATS One Feed's implementation was pending to SEC approval, and at no point has the Exchange offered the BATS One product for any use other than for testing and certification.

6. Extension of Time Period for Commission Action

Not applicable.

7. Basis for Summary Effectiveness Pursuant to Section 19(b)(3) or for Accelerated Effectiveness Pursuant to Section 19(b)(2)

(a) Not applicable.

(b) Not applicable.

(c) Not applicable.

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BATS filing that proposes to offer the same feed); and Letter from Suzanne Hamlet Shatto to the Commission, dated August 19, 2014 (SR-EDGA-2014-16) ("Shatto Letter") (letter commenting on companion EDGA filing that proposes to offer the same feed).

<sup>36</sup> See Securities Exchange Act Release No. 73099 (September 15, 2014), 79 FR 56418 (September 19, 2014).

This proposed rule change is filed for accelerated effectiveness pursuant to Section 19(b)(2) of the Act.<sup>37</sup> The Exchange requests that the Commission approve this proposed rule change on an accelerated basis pursuant to Section 19(b)(2) of the Act so that it may be operative as soon as practicable. The Exchange believes that there is good cause for the Commission to accelerate effectiveness because it would provide market participants with additional transparency by disseminating the BATS Exchanges' market data more widely through additional distribution channels, which will enable investors to better monitor trading activity on the BATS Exchange, and thereby serve the public interest. Providing investors with new options for receiving market data, as the Exchange proposes, was a primary goal of the market data amendments adopted by Regulation NMS.<sup>38</sup> The Exchange further believes that this proposed rule change would not impose a burden on competition for the reasons set forth in Section 4 above. Because other exchanges already offer ~~or have proposed~~ similar products,<sup>39</sup> the Exchange's proposed products will enhance competition.

The Exchange believes that accelerated effectiveness will permit the Exchange to immediately compete with other exchanges that offer similar products.<sup>40</sup> The Exchange believes that potential subscribers to the BATS One Feed would welcome a market data product that provides a competitive alternative to similar products offered by Nasdaq and ~~proposed by~~ the NYSE. Accelerated effectiveness will enable the Exchange to

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<sup>37</sup> 15 U.S.C. 78s(b)(2).

<sup>38</sup> See Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, at 37503 (June 29, 2005) (Regulation NMS Adopting Release).

<sup>39</sup> See supra note ~~6~~7.

<sup>40</sup> Id.

immediately provide investors with a new option for receiving market data and to provide a market data product that meets the needs of prospective subscribers that are seeking alternative to those offered by Nasdaq and ~~proposed by~~ the NYSE. Accordingly, accelerated effectiveness is consistent with the protection of investors and the public interest because it would facilitate investors' prompt access to a competitive, alternative market data product to those offered by NYSE and Nasdaq on a timely basis. As a result, the Exchange believes good reasons exists for the Commission to accelerate effectiveness of the proposed rule change.

8. Proposed Rule Change Based on Rules of Another Self-Regulatory Organization or of the Commission

Not applicable.

9. Security Based-Swap Submissions Filed Pursuant to Section 3C of the Act

Not applicable.

10. Advance Notices Filed Pursuant to Section 806(e) of the Payment, Clearing and Settlement Supervision Act

Not applicable.

11. Exhibits

Exhibit 1 – Form of Notice of Proposed Rule Change for Federal Register.

Exhibit 5 – Text of the Proposed Rule Change.