

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-63122; File No. SR-BATS-2010-028)

October 18, 2010

Self-Regulatory Organizations; BATS Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposal to Make Clean Up Changes by Amending Certain Rules.

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 October 6, 2010, BATS Exchange, Inc. (the “Exchange” or “BATS”) filed with the Securities and Exchange Commission (the “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 Substance of the Proposed Rule Change

The Exchange is proposing to amend BATS Rule 2.3 to clarify that a broker or dealer must be a member of another national securities exchange or association other than BATS Y-Exchange, Inc. (“BYX”) in order to become or remain a Member of the Exchange, to remove the text of Rule 2.4 because the waive-in period for the Exchange has expired, and to make a technical correction to BATS Rule 14.5. The text of the proposed rule change is available at the

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).

Exchange's Web site at <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 BATS Rule 2.3 to clarify that a broker or dealer be a member of another national securities exchange or association other than or in addition to the Exchange's affiliate, BYX, in order to become or remain a Member of the Exchange. The Exchange also proposes to remove the text of BATS Rule 2.4 because the rule has become obsolete as the period for submission of a waive-in membership application has expired. Lastly, the Exchange proposes to make a technical correction to BATS Rule 14.5(c) to replace a reference to "Commodity-Based Trust Shares" with "Currency Trust Shares".

Amend Rule 2.3 to Reflect Existence of BATS Y-Exchange

The Exchange requires all of its Members to be a member of at least one other national securities association or national securities exchange. The proposed change would make clear that this requirement is not satisfied simply by joining the Exchange's affiliated exchange, BYX. Rather, as the proposed language indicates, each Member that is a registered broker or dealer

must be a member of another registered national securities exchange or association other than or in addition to BYX.

Deletion of Obsolete Rule – BATS Rule 2.4

As approved by the Commission as part of the Exchange's Form 1 application, BATS Rules include provisions that permitted current or former subscribers to the electronic communications network formerly operated by BATS Trading, Inc. to apply to become a Member of the Exchange by submitting a "waive-in application" within ninety (90) days of approval of the Form 1 by the Commission. The Commission approved the Exchange's Form 1 application on August 18, 2008, meaning that waive-in membership applications must have been received by the Exchange on or prior to November 16, 2008. Accordingly, BATS Rule 2.4 is obsolete, and thus, the Exchange proposes to delete such rule.

Correct Improper Term in BATS Rule 14.5(c)

Lastly, the Exchange proposes to correct language in BATS Rule 14.5(c) to replace an incorrect reference to "Commodity-Based Trust Shares" with "Currency Trust Shares".

2. Statutory Basis

The rule change proposed in this submission 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(b) of the Act.⁵ Specifically, the Exchange believes that the proposed changes are consistent with Section 6(b)(5) of the Act,⁶ because they would promote just and equitable principles of trade, remove impediments to, and perfect the

⁵ 15 U.S.C. 78f(b).

⁶ 15 U.S.C. 78f(b)(5).

mechanism of, a free and open market and a national market system, and, in general, protect investors and the public interest.

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

The Exchange does not believe that the proposed rule change imposes any burden on competition.

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

The Exchange has neither solicited nor received written comments on the proposed rule change.

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

Because the foregoing 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, it has become effective pursuant to Section 19(b)(3)(A) of the Act⁷ and Rule 19b-4(f)(6)(iii) thereunder.⁸

A proposed rule change filed under Rule 19b-4(f)(6) normally does not become operative for 30 days after the date of filing. However, Rule 19b-4(f)(6)(iii) permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange requests that the Commission waive the 30-day operative delay, as specified in Rule 19b-4(f)(6)(iii),⁹ which would make the rule change effective and operative upon filing. The Commission believes that waiving the 30-day operative delay is consistent with

⁷ 15 U.S.C. 78s(b)(3)(A).

⁸ 17 CFR 240.19b-4(f)(6).

⁹ 17 CFR 240.19b-4(f)(6)(iii).

the protection of investors and the public interest.¹⁰ Such waiver will result in immediate improvement to the Exchange's rules by clarifying vague language, removing inoperative language, and correcting a technical inaccuracy. The Commission believes such improvements should be implemented immediately, rather than delayed for 30 days. Additionally, the proposed rule change does not raise any new regulatory issues. For these reasons, the Commission designates the proposed rule change as operative upon filing.

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

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-2010-028 on the subject line.

Paper Comments:

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities Exchange Commission, 100 F Street, NE, Washington, DC 20549-1090.

¹⁰ For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

All submissions should refer to File Number SR-BATS-2010-028. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet website (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street, NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-BATS-2010-028 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.¹¹

Florence E. Harmon
Deputy Secretary

¹¹ 17 CFR 200.30-3(a)(12).