

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-65497; File No. SR-BATS-2011-042)

October 6, 2011

Self-Regulatory Organizations; BATS Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Revenue Sharing Program with Correlix and a Free Trial Period for New Users of the Correlix Service

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the “Act” or the “Exchange Act”),¹ and Rule 19b-4 thereunder,² notice is hereby given that on September 30, 2011, BATS Exchange, Inc. (the “Exchange” or “BATS”) 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 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 establish a revenue sharing program with Correlix, Inc. (“Correlix”) and a free trial period for new subscribers to the Correlix service.

The text of the proposed rule change is available at the Exchange’s website 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

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

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 purpose of the proposed rule change is to establish a revenue sharing program with Correlix. The Exchange has entered into an agreement with Correlix to provide to Users³ of the Exchange real-time analytical tools to measure the latency of orders to and from the Exchange’s system as well as the latency of market data updates transmitted from the Exchange systems to the User. Under the agreement, the Exchange will receive 30% of the total monthly subscription fees received by Correlix from parties who have contracted directly with Correlix to use their RaceTeam latency measurement service for the Exchange. The Exchange will not bill or contract with any Correlix RaceTeam customer directly.

Fees will apply separately for Users of the Exchange’s cash equities platform and the Exchange’s equity options platform. Pricing for the Correlix RaceTeam product for Users of the Exchange will be based on the number of ports requested by the User for monitoring by Correlix; each “port” is a FIX or binary order entry (“BOE”) protocol connection to the Exchange. The fee for equities Users of the Exchange will be an initial \$2,500 monthly base fee for the first 25 ports requested by the User for latency monitoring, and an additional \$1,000 per month for each additional 25 ports (or portion thereof) requested by the User for latency monitoring. The fee for options Users of the Exchange will be an initial \$1,500 monthly fee for the first 25 ports

³ A “User” is defined in BATS Rule 1.5(cc) as any member or sponsored participant of the Exchange who is authorized to obtain access to the System.

requested by the User for latency monitoring, and an additional \$1,000 per month for each additional 25 ports (or portion thereof).

The use of ports as the basis of charging will permit order-related messages transmitted to the Exchange's cash equities platform and the Exchanges equity options platform to be differentiated and kept separate. For these purposes, the combination of port and User ID provides the mechanism for Users to receive latency data for their transactions on each particular Exchange market. The Correlix RaceTeam product will include controls such that Users will not be able to obtain latency information about options orders through an equities port connection and vice versa.

Under the program, the Correlix data collector⁴ will see an individualized unique identifier that will allow Correlix RaceTeam to determine round trip order time,⁵ from the time the order reaches the Exchange, through the Exchange matching engine, and back out of the Exchange. The RaceTeam product offering does not measure latency outside of the Exchange. The unique identifier serves as a technological information barrier so that the Correlix data collector will only be able to view data for Correlix RaceTeam subscribers related to latency. The Correlix data collector will not see subscriber's individual order detail such as security, price or size. Individual RaceTeam subscribers' logins will restrict access to only their own latency data. The Correlix data collector will see no specific information regarding the trading activity of non-subscribers. The Exchange believes that the above arrangement will provide Users of the

⁴ The Correlix data collector is a Correlix process that receives information from the Exchange that is subsequently taken into Correlix's systems for latency monitoring purposes.

⁵ The product measures latency of orders whether the orders are rejected, executed, or partially executed.

Exchange with greater transparency into the processing of their trading activity and allow them to make more efficient trading decisions.

In addition, the Exchange proposes to establish a flexible 60-day free trial so parties will be eligible for one free 60-day trial period of Correlix services whenever they initially elect to sign-up for the service, now or in the future. The Exchange is proposing the flexible trial to ensure that all Correlix subscribers have an equal opportunity to take advantage of an initial free trial period.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,⁶ in general, and furthers the objectives of Section 6(b)(5) of the Act,⁷ in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and 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 believes the proposed rule will provide greater transparency into trade and information processing and thus allow market participants to make better-informed and more efficient trading decisions.

⁶ 15 U.S.C. 78f(b).

⁷ 15 U.S.C. 78f(b)(5).

In addition, the Exchange believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,⁸ in general, and with Section 6(b)(4) of the Act,⁹ in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility or system that the Exchange operates or controls. In particular, the Exchange notes that it operates in a highly competitive market in which market participants can readily direct orders to competing venues and that use of the Correlix RaceTeam product is completely voluntary. Further, the Exchange will make the RaceTeam product uniformly available pursuant to a standard non-discriminatory pricing schedule offered by Correlix and will offer the free trial period on a uniform and non-discriminatory basis.

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

⁸ 15 U.S.C. 78f.

⁹ 15 U.S.C. 78f(b)(4).

as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act¹⁰ and Rule 19b-4(f)(6)(iii) thereunder.¹¹

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 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 Number SR-BATS-2011-042 on the subject line.

Paper Comments:

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

All submissions should refer to File Number SR-BATS-2011-042. 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

¹⁰ 15 U.S.C. 78s(b)(3)(A).

¹¹ 17 CFR 240.19b-4(f)(6).

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 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-2011-042 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.¹²

Elizabeth M. Murphy
Secretary

¹² 17 CFR 200.30-3(a)(12).