

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-70264; File No. SR-BATS-2013-045)

August 27, 2013

Self-Regulatory Organizations; BATS Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Establish a Revenue Sharing Program

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 August 15, 2013, BATS Exchange, Inc. (the “Exchange” or “BATS”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change as described in Items I and II 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 filed a proposed rule change to establish a revenue sharing program with Interactive Data Corporation, acting by and through its division, Interactive Data Desktop Solutions, and its subsidiary, Interactive Data Online Properties, Inc. (collectively “IDC”), whereby the Exchange will make available, through IDC, private labeled versions of IDC’s Market–Q and LiveCharts products.

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.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

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 the Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to establish a non-exclusive revenue sharing program with IDC whereby the Exchange will make available new market data offerings consisting of private labeled versions of IDC's Market-Q and LiveCharts products. Pursuant to an agreement between IDC and the Exchange, the private labeled products will be marketed by the Exchange by featuring and advertising them on the Exchange's website. Market-Q will be marketed under the private label name "BATS Investor Pro" and LiveCharts will be marketed under the private label name "BATS Investor RT" (BATS Investor Pro and BATS Investor RT, collectively, the "Private Labeled Products"). Under the agreement, the Exchange will receive 25% of the total monthly subscription fees received by IDC from parties who have registered to use the Private Labeled Products and who first subscribe as a result of the Exchange's marketing activities under the agreement, less certain fees and taxes. IDC will operate and maintain the Private Labeled Products and will provide first line technical support, accounting and

contract administration services for the Private Labeled Products. The Exchange will not bill or contract with any subscriber directly.

Market-Q, which was developed by IDC, is a browser-based, front-end product that provides global real-time pricing information, corporate actions and dividend data, news, research, and other financial and market data, including charts and alerts. The data includes a broad range of global exchanges and indices, including performance data, historical pricing, fixed income, commodities, foreign exchange, exchange-traded equity and derivative securities.³ LiveCharts, which was also developed by IDC, is a browser-based, front-end product that provides charting and technical analysis of global real-time market data.⁴ BATS Investor Pro and BATS Investor RT will include only market data from the Exchange.⁵

The Exchange intends to submit a separate proposed rule change with pricing details for the Private Labeled Products.

Various data recipients may wish to subscribe to and use the Private Labeled Products. For instance, data recipients that receive real-time market information on public websites or subscribe to dynamic stock tickers, portfolio trackers, price/time graphs and other visual systems can use the Private Labeled Products in lieu of using such products. Such data recipients may prefer the Private Labeled Products to view Exchange data to the extent they are familiar with such products that include data from

³ <http://www.interactivedata.com/uploads/File/MARketQ.pdf>.

⁴ <http://www.esignal.com/livecharts/default.aspx>.

⁵ Subscribers of BATS Investor Pro and BATS Investor RT may, for an additional fee, supplement their subscriptions to include market data in addition to Exchange data. This fee is not included as part of the Exchange's revenue sharing program with IDC.

other markets. The Exchange notes that similar market data products are offered by IDC containing data from other exchanges and market centers.

No Exchange participant is required to subscribe to the Private Labeled Products because the same information is available in the Exchange's other data feeds.⁶ Exchange participants can also gain access to BATS quotations and last sale prices that are integrated with the prices that other markets make available through the Security Information Processors ("SIPs") for the national market system plans responsible for disseminating consolidated market information. Indeed, even though the Private Labeled Products may provide to some participants an efficient alternative to the consolidated price information that investors and broker-dealers can receive on a consolidated basis from the SIPs, the Exchange believes that the information that the Exchange contributes to the consolidated tape and the increasingly lower latency of the data feeds offered by the SIPs will continue to satisfy the needs of the vast majority of individual and professional investors. Although certain data recipients might supplement their access to data by subscribing to the Private Labeled Products, it is unlikely that data recipients or distributors will replace the consolidated feeds provided by the SIPs and/or their direct access to BATS data feeds as a result of the availability of the Private Labeled Products.

⁶ The Exchange currently offers various data feeds, including, but not limited to, TCP PITCH and Multicast PITCH, which are depth of book data feeds containing real-time quotation and transaction data from the Exchange; DROP, which contains order execution and other information (*e.g.*, modifications and cancellations) specific to the Exchange activity of one or more Exchange participants; and TOP, which contains real-time top of book quotation and transaction information from the Exchange. Beginning July 1, 2013, the Exchange implemented fees for the PITCH (including both TCP PITCH and Multicast PITCH) and TOP data products, and revised the fee for the Last Sale Feed data product. The Exchange continues to offer its other market data products to data recipients free of charge.

The Exchange represents that it will not distribute information to IDC for inclusion in the Private Labeled Products on a more timely basis than it makes available the data to all Exchange participants that receive such data feeds or that is provided to the SIPs for consolidation and dissemination, nor will IDC have any special or different access to the Exchange's data as a result of IDC's arrangement with the Exchange. In addition, the Exchange represents that IDC has not (and will not) receive any preferential treatment as a result of IDC's arrangement with the Exchange.

All Exchange participants, including IDC, that receive BATS data directly from the Exchange pay connectivity fees to access such data through logical and physical ports connected to the Exchange's systems. Beginning July 1, 2013, the Exchange implemented fees for the PITCH (including both TCP PITCH and Multicast PITCH) and TOP data products, and revised the fee for the Last Sale Feed data product. Accordingly all Exchange participants, including IDC, are charged standard fees for the receipt, use or redistribution of such data feeds. The Exchange continues to offer its other market data products to data recipients free of charge. Under the new agreement with IDC, IDC will continue to receive any of the various BATS data feeds that it currently subscribes to on the same terms as other Exchange participants, and will continue to pay any port fees that it currently pays to the Exchange to receive such data feeds. Additionally, beginning July 1, 2013, IDC became subject to data fees payable to the Exchange for such data feeds on the same terms as all other Exchange participants that receive, use or redistribute BATS data from the Exchange.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,⁷ in general, and furthers the objectives of Section 6(b)(5) of the Act,⁸ 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 allow Exchange participants to make better-informed and more efficient trading decisions by making available the Private Labeled Products. In addition, the Exchange notes that the revenue sharing program is not exclusive as between the Exchange and IDC. Any recipient of BATS data feeds is permitted to redistribute such data, whether through a revenue sharing arrangement with BATS or otherwise, or provide products and services similar to those being offered by IDC, provided that such recipient (including IDC) has entered into the required contractual arrangements with the Exchange.⁹

Lastly, these products are completely optional in that no consumer is required to purchase any of them and only those consumers that deem such products to be of sufficient overall value and usefulness will purchase them. To the extent consumers do

⁷ 15 U.S.C. 78f(b).

⁸ 15 U.S.C. 78f(b)(5).

⁹ Recipients of BATS data feeds, either directly from the Exchange or from a third-party data vendor, that seek to redistribute such data, either internally or externally, are required to execute a BATS Global Markets, Inc. Data Agreement, an Exchange Data Feed Order Form and System Description, List of Affiliates (if applicable), and Service Facilitator List (if applicable).

purchase the Private Labeled Products, the revenue generated will offset the Exchange's fixed costs of operating and regulating its trading platforms, including the continued operation of data feeds that will supply data to be used in the Private Labeled Products. It will also help the Exchange cover its costs in developing and running that platform, as well as ongoing infrastructure costs.

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

The proposed rule change does not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. As discussed above, similar market data products are offered by IDC containing data from other exchanges and market centers. Further, the revenue sharing program is not exclusive as between the Exchange and IDC. Any recipient of BATS data feeds is permitted to redistribute such data, whether through a revenue sharing arrangement with BATS or otherwise, or provide products and services similar to those being offered by IDC, provided that such recipient (including IDC) has entered into the required contractual arrangements with the Exchange. The Exchange represents that it will not distribute information to IDC for inclusion in the Private Labeled Products on a more timely basis than it makes available the data to all Exchange participants that receive such data feeds or that is provided to the SIPs for consolidation and dissemination, nor will IDC have any special or different access to the Exchange's data as a result of IDC's arrangement with the Exchange. In addition, the Exchange represents that IDC has not (and will not) receive any preferential treatment as a result of IDC's arrangement with the Exchange.

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)(ii) of the Act¹⁰ and subparagraph (f)(6) of Rule 19b-4 thereunder.¹¹

A proposed rule change filed under Rule 19b-4(f)(6)¹² normally does not become operative for 30 days after the date of filing. However, pursuant to Rule 19b-4(f)(6)(iii),¹³ the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has requested that the Commission waive the 30-day operative delay so that the proposed rule change may

¹⁰ 15 U.S.C. 78s(b)(3)(A)(ii).

¹¹ 17 CFR 240.19b-4(f)(6). Pursuant to Rule 19b-4(f)(6)(iii), the Exchange is required to provide the Commission with written notice of its intent to file the proposed rule change, along with a brief description and the 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. The Commission has determined to waive the requirement that BATS provide the Commission with written notice of its intent to file the proposed rule change at least five business days prior to the filing date.

¹² 17 CFR 240.19b-4(f)(6).

¹³ Rule 19b-4(f)(6)(iii).

become operative upon filing. The Exchange believe that such a waiver would allow it to immediately offer the Private Labeled Products to market participants enabling them to make better-informed and more efficient trading decisions. In addition, the Exchange notes that the Private Labeled Products are optional and can be used by a wide variety of market participants for a wide variety of purposes. For these reasons, the Commission designates the proposed rule change to be operative upon filing.¹⁴

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. 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 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-2013-045 on the subject line.

¹⁴ 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).

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-2013-045. 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-2013-045, 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

Kevin M. O'Neill
Deputy Secretary

¹⁵ 17 CFR 200.30-3(a)(12).