

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-74666; File No. SR-BATS-2015-26)

April 7, 2015

Self-Regulatory Organizations; BATS Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Rule 20.6 to Adopt a New Provision to Account for Erroneous Trades Occurring from Disruptions and/or Malfunctions of Exchange Systems

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 April 1, 2015, BATS Exchange, Inc. (the “Exchange” or “BATS”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change as described in Item II below, which Item has 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 the Substance of the Proposed Rule Change

The Exchange proposes to amend Rule 20.6, Nullification and Adjustment of Options Transactions including Obvious Errors, to adopt a new provision to account for erroneous trades occurring from disruptions and/or malfunctions of Exchange systems. The proposed rule change is based on the rules of NYSE Arca, Inc. (“NYSE Arca”) and the International Securities Exchange, LLC (“ISE”).⁵ Therefore, the Exchange has designated this proposal as non-

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).

⁵ See ISE Rule 720A and NYSE Arca Rule 6.89. See also Securities Exchange Act Release No. 72490 (June 27, 2014), 79 FR 38105 (July 3, 2014) (SR-ISE-2014-34)

controversial and provided the Commission with the notice required by Rule 19b-4(f)(6)(iii) under the Act.⁶ The text of the proposed rule change is available at the Exchange's website at www.batstrading.com, at the principal office of the Exchange, and at the Commission's Public 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 Rule 20.6, Nullification and Adjustment of Options Transactions including Obvious Errors, to adopt a new provision to account for erroneous trades occurring from disruptions and/or malfunctions of Exchange systems. Specifically, proposed paragraph (k) to Rule 20.6 would provide that any transaction that arises out of a "verifiable systems disruption or malfunction" in the use or operation of an Exchange automated quotation, dissemination, execution, or communication system may either be nullified or adjusted by an Official. Under the proposed paragraph (k), an Official may act, on his or her own motion, to

(Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Establish New Rule 720A). The proposed rule change is also based in part on Nasdaq OMX PHLX, LLC ("PHLX") Rule 1092(c)(ii)(A), and in addition, is substantially similar to Chicago Board Options Exchange, Inc. ("CBOE") Rule 6.25(a)(3).

⁶ 17 CFR 240.19b-4(f)(6)(iii).

review erroneous transactions. The proposed rule change is based on the rules of NYSE Arca and the ISE.⁷

According to the proposal, in the event of any verifiable disruption or malfunction in the use or operation of an Exchange automated quotation, dissemination, execution, or communication system, in which the nullification or modification of transactions may be necessary to maintain a fair and orderly market or the protection of investors and the public interest exists, an Official, on his or her own motion, may review such transactions and declare the transactions occurring during such period null and void or adjust the price of those transaction to their Theoretical Price, as defined in paragraph (b) of Rule 20.6. Pursuant to the proposal, an Official, absent extraordinary circumstances, must initiate action under this authority within sixty (60) minutes of the occurrence of the erroneous transaction that was a result of a verifiable disruption or malfunction.

Each Options Member involved in the transaction shall be notified as soon as practicable, and any Options Member aggrieved by the action may appeal such action in accordance with the provisions of proposed renumbered paragraph (l) of Rule 20.6. Current subparagraph (k), which sets for the appeals process of decisions made by an Official⁸ pursuant to Rule 20.6, would be renumbered as paragraph (l) and cross references to current paragraph (k) within Rule 20.6 would be updated to reference renumbered paragraph (l) accordingly.

⁷ See supra note 5.

⁸ An Official is defined under current Rule 20.6(d) as “[a]n Officer of the Exchange or such other employee designee of the Exchange that is trained in the application of this rule [20.6].”

The Exchange notes that the Commission recently approved amendments to Rule 20.6⁹ and that other options markets are to file proposed rule changes with the Commission to harmonize their respective obvious and catastrophic error rules with Rule 20.6. The Exchange understands that the provision it proposes to add to Rule 20.6 herein is to be retained by other options exchanges as part of their harmonized rules. Therefore, the Exchange believes it is critical to its ability to maintain fair and orderly markets and to protect investors to propose to add this provision to its rules.

The Exchange believes it is appropriate to provide the flexibility and authority provided for in proposed paragraph (k) to Rule 20.6 so as not to limit the Exchange's ability to plan for and respond to unforeseen problems and malfunctions. The proposed rule change would provide the Exchange with the same authority to nullify or adjust trades in the event of a "verifiable disruption or malfunction" in the use or operation of its systems as other exchanges have.¹⁰ For this reason, the Exchange believes that, in the interest of maintaining a fair and orderly market and for the protection of investors, authority to nullify or adjust trades in these circumstances, consistent with the authority on other exchanges, is warranted.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b)(5) of the Act,¹¹ which requires, among other things, that the Exchange's rules be designed to prevent

⁹ See Securities Exchange Act. Release No. 74556 (March 20, 2015) (SR-BATS-2014-067). The Exchange notes that a comment letter received in response to the proposed rule change suggesting that the Exchange also include a rule provision covering verifiable disruptions or malfunctions of Exchange systems as proposed herein. See letter from Joanna Fields, Principal, Aplomb Strategies Inc. to Brent Fields, Secretary, Commission, dated March 23, 2015.

¹⁰ See supra note 5.

¹¹ 15 U.S.C. 78f(b)(5).

fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanism of a free and open market and a national market system.

The Exchange believes the proposed rule change would remove impediments to and perfect the mechanism of a free and open market and national market system and promote a fair and orderly market because it would provide authority to the Exchange to nullify or adjust trades that may have resulted from a verifiable systems disruption or malfunction. The Exchange believes that it is appropriate to provide the flexibility and authority provided for in the proposed rule change so as not to limit the Exchange's ability to plan for and respond to unforeseen systems problems or malfunctions that may result in harm to the public. Allowing for the nullification or modification of transactions that result from verifiable disruptions and/or malfunctions of Exchange systems will offer market participants on the Exchange a level of relief not presently available. The Exchange further notes that when acting under its own motion of nullify or adjust trades pursuant to proposed paragraph (k) of Rule 20.6, the Exchange must consider whether taking such action would be in the interest of maintaining a fair and orderly market and for the protection of investors. The Exchange also notes that proposed rule change is based on the rules of other exchanges.

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

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. Rather, the Exchange believes the proposed rule change will enhance competition because it will align the Exchange's rules with the rules of other markets, including CBOE, NYSE Arca, the

ISE, and PHLX. By adopting paragraph (k) to Rule 20.6 the Exchange will be in a position to treat transactions that are the result of a verifiable systems disruption or malfunction in a manner similar to other exchanges.

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 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 if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act¹² and Rule 19b-4(f)(6)(iii) thereunder.¹³

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.

¹² 15 U.S.C. 78s(b)(3)(A).

¹³ 17 CFR 240.19b-4(f)(6)(iii). As required under Rule 19b-4(f)(6)(iii), the Exchange provided 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.

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-2015-26 on the subject line.

Paper comments:

- Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-1090.

All submissions should refer to File Number SR-BATS-2015-26. 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, D.C. 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-2015-26, 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.¹⁴

Brent J. Fields
Secretary

¹⁴ 17 CFR 200.30-3(a)(12).