

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-65406; File No. SR-BYX-2011-023)

September 27, 2011

Self-Regulatory Organizations; BATS Y-Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Related to Fees for Use of BATS Y-Exchange, Inc.

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 September 14, 2011, BATS Y-Exchange, Inc. (the “Exchange” or “BYX”) 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 Exchange has designated the proposed rule change as one establishing or changing a member due, fee, or other charge imposed by the Exchange under Section 19(b)(3)(A)(ii) of the Act³ and Rule 19b-4(f)(2) thereunder,⁴ which renders the proposed rule change 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 proposes to amend the fee schedule applicable to Members⁵ of the Exchange pursuant to BYX Rules 15.1(a) and (c). While changes to the fee schedule

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 15 U.S.C. 78s(b)(3)(A)(ii).

⁴ 17 CFR 240.19b-4(f)(2).

⁵ A Member is any registered broker or dealer that has been admitted to membership in the Exchange.

pursuant to this proposal will be effective upon filing, the changes will become operative on September 16, 2011.

The text of the proposed rule change is available at the 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 modify its fee schedule applicable to use of the Exchange effective September 16, 2011, in order to adopt a fee for any order subject to price sliding that adds liquidity to the Exchange and receives price improvement over its ranked price when executed. Pursuant to Exchange price sliding, an order that would lock or cross a protected quotation is ranked on the Exchange's order book at the locked price and then displayed at one minimum price level less aggressive than the locking price. For bids, this means that a price slid order is displayed at one minimum price variation less than the current national best offer ("NBO"), and for offers, this means that

a price slid order is displayed at one minimum price variation more than the current national best bid (“NBB”).

The Exchange received approval in June of a rule change to allow a non-displayed order or an order subject to the price sliding process that is not executable at its most aggressive price to be executed at one-half minimum price variation less aggressive than the price at which it is ranked.⁶ The Exchange immediately implemented the change for non-displayed orders, but delayed the implementation related to orders subject to price sliding in order to complete development of the necessary system functionality. On September 16, 2011, the Exchange plans to implement the systems change to allow an order subject to price sliding to execute at one-half minimum price variation less aggressive than the price at which such order is ranked. Specifically, in the event an order submitted to the Exchange on the side opposite such a price slid order is a market order or a limit order priced more aggressively than the locking price, the Exchange will execute the resting order subject to price sliding at, in the case of a resting bid, one-half minimum price variation less than the locking price, and, in the case of a resting offer, at one-half minimum price variation more than the locking price. Based on the functionality, orders executed as described above will receive price improvement over the price at which such orders are ranked. Because price slid orders subject to the order handling process described above will receive price improvement, the Exchange proposes to execute the orders subject to a fee of \$0.0030 per share, which is the same fee imposed for executions of non-displayed orders that receive price improvement when executed.

⁶ See Securities Exchange Act Release No. 64753 (June 27, 2011), 76 FR 38714 (July 1, 2011) (SR-BYX-2011-009) (Order Approving a Proposed Rule Change to Amend BATS Rule 11.9, entitled “Orders and Modifiers” and BATS Rule 11.13, entitled “Order Execution”).

The Exchange believes that price improvement received for executions of orders subject to price sliding will offset the additional fee charged by the Exchange for such orders.

2. Statutory Basis

The Exchange believes that the proposed rule change 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 of the Act.⁷ Specifically, the Exchange believes that the proposed rule change is consistent with Section 6(b)(4) of the Act,⁸ in that it provides for the equitable allocation of reasonable dues, fees and other charges among members and other persons using any facility or system which the Exchange operates or controls. The Exchange notes that it operates in a highly competitive market in which market participants can readily direct order flow to competing venues if they deem fee levels at a particular venue to be excessive. The Exchange believes that the proposed fee applicable to any execution of a price slid order that receives price improvement over its ranked price is competitive, fair and reasonable, and non-discriminatory in that the fee will apply uniformly to all Members and because the proposed fee is the same fee imposed for non-displayed orders that are handled similarly. Finally, the Exchange believes that the additional fee for executions of orders subject to price sliding that receive price improvement is appropriate because the price improvement received will offset the change in the fee structure for such orders.

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

⁷ 15 U.S.C. 78f.

⁸ 15 U.S.C. 78f(b)(4).

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

No written comments were solicited or received.

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

Pursuant to Section 19(b)(3)(A)(ii) of the Act⁹ and Rule 19b-4(f)(2) thereunder,¹⁰ the Exchange has designated this proposal as establishing or changing a due, fee, or other charge applicable to the Exchange's Members and non-members, which renders the proposed rule change effective 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. 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:

⁹ 15 U.S.C. 78s(b)(3)(A)(ii).

¹⁰ 17 CFR 240.19b-4(f)(2).

- 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-BYX-2011-023 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-BYX-2011-023. 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 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-BYX-2011-023 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

Elizabeth M. Murphy
Secretary

¹¹ 17 CFR 200.30-3(a)(12).