SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-68895; File No. SR-BYX-2013-004)

February 11, 2013

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 January 29, 2013, 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, II and III 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 Act[3] 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 the Substance of the Proposed Rule Change

The Exchange proposes to amend the fee schedule applicable to Members[5] and non-members of the Exchange pursuant to BYX Rules 15.1(a) and (c). Changes to the fee schedule pursuant to this proposal will be effective upon filing.

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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.

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 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 in order to amend the fee structure related to its Retail Price Improvement ("RPI") program. Under the RPI program as currently constituted, the Exchange generally provides a rebate of $0.0025 per share for Retail Orders that remove liquidity from the BYX Exchange order book in certain specified securities and provides a rebate of $0.0010 per share for a Retail Order that removes liquidity from the BYX Exchange order book in other specified securities. For executions of Type 2 Retail Orders that remove displayed liquidity, however, the Exchange's fee schedule states that it applies standard removal pricing (i.e., either a $0.0002 per share liquidity removal rebate or an execution free of charge) rather than specific RPI pricing.

The Exchange wishes to note that the standard removal pricing applied to Type 2 Retail Orders that remove displayed liquidity includes Type 2 Retail Orders that remove displayed orders at a price more aggressive than the displayed price of such orders -- this includes displayed orders subject to display-price sliding and displayed discretionary orders. The Exchange proposes to modify the fee schedule, including a related footnote, to extend the application of its standard removal pricing to include Type 1 Retail Orders that remove displayed liquidity, including orders that are displayed at a less aggressive price, but are willing to execute at a non-displayed and more aggressive price (again, displayed orders subject to display-price sliding and displayed discretionary orders).

As proposed, all Retail Orders (both Type 1 and Type 2 Retail Orders) that remove displayed liquidity would be, in all cases, subject to the Exchange's standard removal fees or rebates, as applicable. Under the proposed pricing structure, a Member that qualifies for the Exchange's $0.0002 per share liquidity removal rebate will receive such rebate for any Retail Order that removes displayed liquidity, and a Member that does not qualify for the liquidity removal rebate would not receive such rebate, but would instead receive the execution of a Retail Order that removes displayed liquidity free of charge. With this in mind, the Exchange believes that providing a lower rebate or a free execution for incoming Retail Orders that interact with displayed liquidity at price improving prices is reasonable due to the price improvement received; such price improvement will help to offset and likely exceed the reduction in rebates for such orders. Further, the Exchange believes that this change will ensure that Members are properly incented to continue to add aggressively priced, displayed liquidity to the Exchange.

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.[6] Specifically, the Exchange believes that the proposed rule change is consistent with Section 6(b)(4) of the Act,[7] 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 its proposal to modify the fee schedule and footnote related to the RPI program is reasonable, equitably allocated and not unfairly discriminatory because this change will result in the application of standard pricing to remove displayed liquidity. The Exchange is concerned that applying higher pricing to displayed orders that are aggressively priced to the extent such orders are displayed by the Exchange and interact with incoming Retail Orders may result in reduced levels of aggressively priced, displayed liquidity on the Exchange. Additionally, the Exchange believes that providing a lower rebate or no rebate to incoming Retail Orders that interact with displayed liquidity is reasonable because, to the extent that such orders interact with displayed liquidity at more aggressive, non-displayed prices, the price improvement received for such executions will help to offset or exceed the reduction in rebates for such orders. Accordingly, the Exchange believes it is reasonable to apply standard pricing to any order displayed by the Exchange, even if removed by a Retail Order pursuant to the RPI program.

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6 15 U.S.C. 78f.

7 15 U.S.C. 78f(b)(4).

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

Because the market for order execution is extremely competitive, Members may choose to preference other market centers ahead of the Exchange if they believe that they can receive better fees or rebates elsewhere. The Exchange does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended. The Exchange believes that its pricing for displayed orders is appropriately competitive vis-à-vis the Exchange's competitors. Further, the Exchange believes that continuing to incentivize the entry of aggressively priced, displayed liquidity fosters intra-market competition to the benefit of all market participants that enter orders to the Exchange, including Retail Orders.

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

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[8] and paragraph (f) of Rule 19b-4 thereunder.[9] 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.

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8 15 U.S.C. 78s(b)(3)(A)(ii).

9 17 CFR 240.19b-4(f)(2).

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-BYX-2013-004 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-2013-004. 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 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-2013-004, 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.[10]

Kevin M. O’Neill
Deputy Secretary

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[10] 17 CFR 200.30-3(a)(12).