

Proposed Rule Change by BATS Exchange
 Pursuant to Rule 19b-4 under the Securities Exchange Act of 1934

Initial <input checked="" type="checkbox"/>	Amendment <input type="checkbox"/>	Withdrawal <input type="checkbox"/>	Section 19(b)(2) <input type="checkbox"/>	Section 19(b)(3)(A) <input checked="" type="checkbox"/>	Section 19(b)(3)(B) <input type="checkbox"/>
Pilot <input type="checkbox"/>			Rule		
Extension of Time Period for Commission Action <input type="checkbox"/>		Date Expires <input type="text"/>	<input type="checkbox"/> 19b-4(f)(1)	<input type="checkbox"/> 19b-4(f)(4)	
			<input type="checkbox"/> 19b-4(f)(2)	<input type="checkbox"/> 19b-4(f)(5)	
			<input type="checkbox"/> 19b-4(f)(3)	<input checked="" type="checkbox"/> 19b-4(f)(6)	

Exhibit 2 Sent As Paper Document Exhibit 3 Sent As Paper Document

Description
 Provide a brief description of the proposed rule change (limit 250 characters).

Contact Information
 Provide the name, telephone number and e-mail address of the person on the staff of the self-regulatory organization prepared to respond to questions and comments on the proposed rule change.

First Name Last Name
 Title
 E-mail
 Telephone Fax

Signature
 Pursuant to the requirements of the Securities Exchange Act of 1934,
 has duly caused this filing to be signed on its behalf by the undersigned thereunto duly authorized officer.

Date
 By
 (Name) (Title)

NOTE: Clicking the button at right will digitally sign and lock this form. A digital signature is as legally binding as a physical signature, and once signed, this form cannot be changed.

SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

For complete Form 19b-4 instructions please refer to the EFFS website.

Form 19b-4 Information

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The self-regulatory organization must provide all required information, presented in a clear and comprehensible manner, to enable the public to provide meaningful comment on the proposal and for the Commission to determine whether the proposal is consistent with the Act and applicable rules and regulations under the Act.

Exhibit 1 - Notice of Proposed Rule Change

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The Notice section of this Form 19b-4 must comply with the guidelines for publication in the Federal Register as well as any requirements for electronic filing as published by the Commission (if applicable). The Office of the Federal Register (OFR) offers guidance on Federal Register publication requirements in the Federal Register Document Drafting Handbook, October 1998 Revision. For example, all references to the federal securities laws must include the corresponding cite to the United States Code in a footnote. All references to SEC rules must include the corresponding cite to the Code of Federal Regulations in a footnote. All references to Securities Exchange Act Releases must include the release number, release date, Federal Register cite, Federal Register date, and corresponding file number (e.g., SR-[SRO]-xx-xx). A material failure to comply with these guidelines will result in the proposed rule change being deemed not properly filed. See also Rule 0-3 under the Act (17 CFR 240.0-3)

Exhibit 2 - Notices, Written Comments, Transcripts, Other Communications

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Exhibit Sent As Paper Document

Copies of notices, written comments, transcripts, other communications. If such documents cannot be filed electronically in accordance with Instruction F, they shall be filed in accordance with Instruction G.

Exhibit 3 - Form, Report, or Questionnaire

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Exhibit Sent As Paper Document

Copies of any form, report, or questionnaire that the self-regulatory organization proposes to use to help implement or operate the proposed rule change, or that is referred to by the proposed rule change.

Exhibit 4 - Marked Copies

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The full text shall be marked, in any convenient manner, to indicate additions to and deletions from the immediately preceding filing. The purpose of Exhibit 4 is to permit the staff to identify immediately the changes made from the text of the rule with which it has been working.

Exhibit 5 - Proposed Rule Text

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The self-regulatory organization may choose to attach as Exhibit 5 proposed changes to rule text in place of providing it in Item I and which may otherwise be more easily readable if provided separately from Form 19b-4. Exhibit 5 shall be considered part of the proposed rule change.

Partial Amendment

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If the self-regulatory organization is amending only part of the text of a lengthy proposed rule change, it may, with the Commission's permission, file only those portions of the text of the proposed rule change in which changes are being made if the filing (i.e. partial amendment) is clearly understandable on its face. Such partial amendment shall be clearly identified and marked to show deletions and additions.

1. Text of the Proposed Rule Change

Pursuant to the provisions of Section 19(b)(1) of the Securities Exchange Act of 1934 (the “Act”),¹ and Rule 19b-4 thereunder,² BATS Exchange, Inc. (the “Exchange” or “BATS”) is filing with the Securities and Exchange Commission (“Commission”) a proposed rule change to amend BATS Rule 11.13, entitled “Order Execution,” to provide Users³ of the Exchange with another option with respect to the Exchange’s method of processing the unfilled balance of a limit order that returns to the Exchange after being routed away to one or more away Trading Centers⁴ for execution. The Exchange has designated this proposal as non-controversial and provided the Commission with the notice required by Rule 19b-4(f)(6)(iii) under the Act.⁵ The Exchange requests that the Commission waive the 30-day pre-operative waiting period contained in Rule 19b-4(f)(6)(iii) under the Act.⁶ If such waiver is granted by the Commission, the Exchange shall implement this rule proposal on or about May 22, 2009.

(a) The text of the proposed rule change is below. Material proposed to be added is underlined. Material proposed to be deleted is enclosed in brackets.

* * * * *

Rule 11.13. Order Execution

(No changes.)

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ As defined in BATS Rule 1.5(bb).

⁴ As defined in BATS Rule 2.11.

⁵ 17 CFR 240.19b-4(f)(6)(iii).

⁶ Id.

(a) (No changes.)

(1) (No changes.)

(2) (No changes.)

(A) (No changes.)

(B) Routing of Marketable Limit Orders. The System will designate limit orders as IOCs and will cause such orders to be routed for execution to one or more Trading Centers (as defined in Rule 2.11) for potential execution, per the entering User's instructions, in compliance with Rule 611 under Regulation NMS. After the System receives responses to orders that were routed away, to the extent an order is not executed in full through the routing process at or better than the initial price at which the order was routed, the System will process the balance of such order as follows. Depending on parameters set by the User when the incoming order was originally entered, the System will either: (i) process the unfilled balance of [an]the order as a BATS Only Order pursuant to Rule 11.9(c)(4)[, or]; (ii) repeat the process described in paragraph (a)(1) above and this paragraph (a)(2)(B) by executing against the BATS Book and/or routing orders to other Trading Centers until the original, incoming order is executed in its entirety or, if not executed in its entirety, post the unfilled balance of the order in the BATS Book if the order's [its] limit price is reached; or (iii) repeat the process described in paragraph (a)(1) above and this paragraph (a)(2)(B) by executing against the BATS Book and/or routing orders to other Trading Centers, provided that the System will check the BATS Book for liquidity at the order's limit price only one time pursuant to paragraph (a)(1), then route orders at that limit price to other Trading Centers pursuant to this paragraph (a)(2)(B), and then cancel any unfilled balance of the order back to User. [If the order's limit price is reached, the order will be posted in the BATS Book.]

(b) – (d) (No changes.)

* * * * *

(b) Not applicable.

(c) Not applicable.

2. Procedures of the Self-Regulatory Organization

The Board of Directors of the Exchange approved this proposed rule change on April 17, 2009. This action constitutes requisite approval under the Exchange's By-Laws.

Questions regarding this rule filing may be directed to Eric Swanson, Senior Vice President and General Counsel of the Exchange at (212) 378-8520.

3. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change.

(a) Purpose

The purpose of the proposed rule change is to provide Users of the Exchange with another option with respect to the Exchange's method of processing the unfilled balance of a limit order that returns to the Exchange after being routed away to one or more away Trading Centers for execution. In connection with this additional option, the Exchange has also proposed various clarifying changes related to the functionality of the current processing options.

The Exchange currently allows Users to submit various types of limit orders to the Exchange that are processed pursuant to Rules 11.13(a)(1) and 11.13(a)(2)(B), as set forth below. Rule 11.13(a)(1) describes the process by which an incoming order would execute against the BATS Book.⁷ To the extent an order has not been executed in its entirety against the BATS Book, Rule 11.13(a)(2)(B) then describes the process of

⁷ As defined in BATS Rule 1.5(d).

routing marketable limit orders⁸ to one or more Trading Centers, including a description of how the Exchange treats any unfilled balance that returns to the Exchange following the first attempt to fill the order through the routing process. Currently, the Exchange either converts such unfilled balance to a BATS Only order, and processes it in accordance with Rule 11.9(c)(4) or again checks the BATS Book for liquidity, then routes the order to away Trading Centers until the Exchange has confirmed that no available liquidity exists on the BATS Book or at away Trading Centers and the order's limit price has been reached.

The Exchange believes that the proposed changes to Rule 11.13 make the process described above more clear. In addition, the Exchange proposes to offer Users a third option for processing of the unfilled balance that returns to the Exchange. As proposed, the new Rule 11.13(a)(2)(B) will allow Users to instruct the Exchange to execute the order against the BATS Book and route the order to away Trading Centers up to the limit price of the order. At the limit price, the Exchange will attempt to execute the order against the BATS Book one time and attempt to fill the order at one or more away Trading Centers, and then cancel any unfilled balance of the order back to the User. This differs from the second option because under the new, proposed option, after routing the order away at the limit price, the Exchange will not again check the BATS Book for available liquidity before canceling the order back to the User.

⁸ Market orders are also routed away, pursuant to Rule 11.13(a)(2)(A), however the Exchange is not proposing any changes to the treatment of routed market orders at this time.

(b) Statutory Basis

The rule change proposed in this submission 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(b) of the Act.⁹ Specifically, the proposed change is consistent with Section 6(b)(5) of the Act,¹⁰ because it would promote just and equitable principles of trade, remove impediments to, and perfect the mechanism of, a free and open market and a national market system, and, in general, protect investors and the public interest, by allowing Users to instruct the Exchange to attempt to execute their orders at the applicable limit price against the BATS Book and then at one or more away Trading Centers, but then to promptly cancel the remaining balance back. This functionality will allow the Exchange to seek to execute the order as promptly as possible but will also provide Users with a faster response as to whether their orders have been executed.

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

The proposed rule change does not impose any burden on competition.

5. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any written comments from members or other interested parties.

⁹ 15 U.S.C. 78f(b).

¹⁰ 15 U.S.C. 78f(b)(5).

6. Extension of Time Period for Commission Action

The Exchange does not consent at this time to an extension of any time period for Commission action.

7. Basis for Summary Effectiveness Pursuant to Section 19(b)(3) or for Accelerated Effectiveness Pursuant to Section 19(b)(2)

The Exchange has designated this rule filing as non-controversial under Section 19(b)(3)(A) of the Act¹¹ and paragraph (f)(6) of Rule 19b-4 thereunder.¹² The Exchange asserts that the proposed rule change: (1) will not significantly affect the protection of investors or the public interest, (2) will not impose any significant burden on competition, and (3) and will not become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate. In addition, the Exchange provided the Commission with written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing.¹³ Also, the Exchange believes that the proposed order handling functionality does not present any policy issues that have not previously been considered by the Commission, but rather, is a minor variation to the order handling used by the Exchange today pursuant to the Exchange's existing rules. For the foregoing reasons, this rule filing qualifies for immediate effectiveness as a "non-controversial" rule change under paragraph (f)(6) of Rule 19b-4.

As described above, the implementation of the order type described in this filing will provide Exchange Users with another option with respect to the handling of orders

¹¹ 15 U.S.C. 78s(b)(3)(A).

¹² 17 CFR 240.19b-4.

¹³ 17 CFR 240.19b-4(f)(6)(iii).

routed away from the Exchange. Accordingly, the proposed changes to Rule 11.13 will be completely optional, and will not require any programming changes by Users of the Exchange unless they choose to use the new functionality. Existing Users will be unaffected by the change to the extent they wish to have the Exchange handle their routed orders in the same way that the Exchange does today. Accordingly, the Exchange believes that its proposal should become immediately effective and requests that the Commission waive the 30-day pre-operative waiting period contained in Rule 19b-4(f)(6)(iii) under the Act.¹⁴ Waiver of this requirement is consistent with the protection of investors and the public interest for the reasons described above.

8. Proposed Rule Change Based on Rule of Another Self-Regulatory Organization or of the Commission

Not applicable.

9. Exhibits

Exhibit 1: Completed Notice of the Proposed Rule Change for publication in the Federal Register.

Exhibit 2 – 5: Not applicable.

¹⁴ 17 CFR 240.19b-4(f)(6)(iii).

EXHIBIT 1

SECURITIES AND EXCHANGE COMMISSION

(Release No. 34-_____; File No. SR-BATS-2009-013)

Self-Regulatory Organizations; BATS Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Amend BATS Rule 11.13, entitled “Order Execution.”

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 May 12, 2009, BATS Exchange, Inc. (“BATS” or the “Exchange”) 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 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 Substance of the Proposed Rule Change

The Exchange is proposing to amend BATS Rule 11.13, entitled “Order Execution,” to provide Users⁵ of the Exchange with another option with respect to the

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 As defined in BATS Rule 1.5(bb).

Exchange's method of processing the unfilled balance of a limit order that returns to the Exchange after being routed away to one or more away Trading Centers⁶ for execution.

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 purpose of the proposed rule change is to provide Users of the Exchange with another option with respect to the Exchange's method of processing the unfilled balance of a limit order that returns to the Exchange after being routed away to one or more away Trading Centers for execution. In connection with this additional option, the Exchange has also proposed various clarifying changes related to the functionality of the current processing options.

The Exchange currently allows Users to submit various types of limit orders to the Exchange that are processed pursuant to Rules 11.13(a)(1) and 11.13(a)(2)(B), as set

⁶ As defined in BATS Rule 2.11.

forth below. Rule 11.13(a)(1) describes the process by which an incoming order would execute against the BATS Book.⁷ To the extent an order has not been executed in its entirety against the BATS Book, Rule 11.13(a)(2)(B) then describes the process of routing marketable limit orders⁸ to one or more Trading Centers, including a description of how the Exchange treats any unfilled balance that returns to the Exchange following the first attempt to fill the order through the routing process. Currently, the Exchange either converts such unfilled balance to a BATS Only order, and processes it in accordance with Rule 11.9(c)(4) or again checks the BATS Book for liquidity, then routes the order to away Trading Centers until the Exchange has confirmed that no available liquidity exists on the BATS Book or at away Trading Centers and the order's limit price has been reached.

The Exchange believes that the proposed changes to Rule 11.13 make the process described above more clear. In addition, the Exchange proposes to offer Users a third option for processing of the unfilled balance that returns to the Exchange. As proposed, the new Rule 11.13(a)(2)(B) will allow Users to instruct the Exchange to execute the order against the BATS Book and route the order to away Trading Centers up to the limit price of the order. At the limit price, the Exchange will attempt to execute the order against the BATS Book one time and attempt to fill the order at one or more away Trading Centers, and then cancel any unfilled balance of the order back to the User. This differs from the second option because under the new, proposed option, after routing the

⁷ As defined in BATS Rule 1.5(d).

⁸ Market orders are also routed away, pursuant to Rule 11.13(a)(2)(A), however the Exchange is not proposing any changes to the treatment of routed market orders at this time.

order away at the limit price, the Exchange will not again check the BATS Book for available liquidity before canceling the order back to the User.

2. Statutory Basis

The rule change proposed in this submission 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(b) of the Act.⁹ Specifically, the proposed change is consistent with Section 6(b)(5) of the Act,¹⁰ because it would promote just and equitable principles of trade, remove impediments to, and perfect the mechanism of, a free and open market and a national market system, and, in general, protect investors and the public interest, by allowing Users to instruct the Exchange to attempt to execute their orders at the applicable limit price against the BATS Book and then at one or more away Trading Centers, but then to promptly cancel the remaining balance back. This functionality will allow the Exchange to seek to execute the order as promptly as possible but will also provide Users with a faster response as to whether their orders have been executed.

(B) Self-Regulatory Organization's Statement of 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 Changes Received from Members, Participants or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

⁹ 15 U.S.C. 78f(b).

¹⁰ 15 U.S.C. 78f(b)(5).

III. Date of Effectiveness of the Proposed Rule Changes 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) of the Act¹¹ and Rule 19b-4(f)(6) thereunder.¹²

Rule 19b-4(f)(6)(iii)¹³ requires the Exchange to give the Commission written notice of the Exchange's intent to file a proposed rule change along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or shorter time as designated by the Commission. The Exchange has satisfied this requirement.

The Exchange has designated this rule filing as non-controversial under Section 19(b)(3)(A) of the Act¹⁴ and paragraph (f)(6) of Rule 19b-4 thereunder.¹⁵ The Exchange asserts that the proposed rule change: (1) will not significantly affect the protection of investors or the public interest, (2) will not impose any significant burden on competition, and (3) and will not become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate. In addition, the Exchange provided the Commission with written notice of its intent to file the proposed rule change, along

¹¹ 15 U.S.C. 78s(b)(3)(A).

¹² 17 CFR 240.19b-4(f)(6).

¹³ 17 CFR 240.19b-4(f)(6)(iii).

¹⁴ 15 U.S.C. 78s(b)(3)(A).

¹⁵ 17 CFR 240.19b-4.

with a brief description and text of the proposed rule change, at least five business days prior to the date of filing.¹⁶ Also, the Exchange believes that the proposed order handling functionality does not present any policy issues that have not previously been considered by the Commission, but rather, is a minor variation to the order handling used by the Exchange today pursuant to the Exchange's existing rules. For the foregoing reasons, this rule filing qualifies for immediate effectiveness as a "non-controversial" rule change under paragraph (f)(6) of Rule 19b-4.

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate 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 No. SR-BATS-2009-013 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.

¹⁶ 17 CFR 240.19b-4(f)(6)(iii).

All submissions should refer to File No. SR-BATS-2009-013. 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 Web site (<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 changes 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 inspection and copying in the Commission's Public Reference Room, 100 F Street, NE, Washington, DC 20549. Copies of such filing will also 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 No. SR-BATS-2009-013 and should be submitted on or before [_____21 days from publication in the Federal Register].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁷

Florence E. Harmon
Deputy Secretary

¹⁷ 17 CFR 200.30-3(a)(12).