

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"/>			<input type="checkbox"/> 19b-4(f)(1)	<input type="checkbox"/> 19b-4(f)(4)	
Date Expires <input type="text"/>			<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 <input type="checkbox"/>	Exhibit 3 Sent As Paper Document <input type="checkbox"/>
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Description
Provide a brief description of the proposed rule change (limit 250 characters).

Proposed rule change to amend BATS Rules 11.9 and 11.13 to add a new order type (a BATS Only BOLT Order) and a pre-routing processing method that will each include an optional display period through which a marketable order will be displayed to Exchange Users (and market data recipients) for a brief period of time designated by the Exchange.

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 Rules 11.9, entitled “Orders and Modifiers, and 11.13, entitled “Order Execution,” to add a new order type (a “BATS Only BOLT Order”) and a pre-routing processing method (“BOLT Routing”) that will each include an optional display period through which a marketable order will be displayed to Exchange Users (and market data recipients) for a brief period of time designated by the Exchange prior to being routed, cancelled, or posted to the BATS Book. 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.³ The Exchange requests that the Commission waive the 30-day pre-operative waiting period contained in Rule 19b-4(f)(6)(iii).⁴ If such waiver is granted by the Commission, the Exchange shall implement this rule proposal on or about June 5, 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 11.9. Orders and Modifiers

(No change.)

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 17 CFR 240.19b-4(f)(6)(iii).

⁴ Id.

(a)-(b) (No changes.)

(c) *Other Types of Orders and Order Modifiers.*

(1)-(4) (No changes.)

(5) *BATS Only BOLT Order.* An order that is to be ranked and executed on the Exchange pursuant to Rule 11.12 and Rule 11.13(a)(1) or cancelled, without routing away to another trading center. A BATS Only BOLT Order that, at the time of entry, would lock or cross a Protected Quotation will be displayed at the NBB for a sell order or the NBO for a buy order to Exchange Users (and market data recipients) for potential execution for a variable period of time not to exceed 500 milliseconds, such period to be determined by the Exchange. At the expiration of the variable time period, if an unfilled balance of the order remains that would continue to lock or cross a Protected Quotation, such unfilled balance will be cancelled. Alternatively, if after the expiration of the variable time period an unfilled balance of the order remains that would not lock or cross a Protected Quotation, such unfilled balance will remain posted in the BATS Book.

~~[(5)]~~[(6)] *BATS Post Only Order.* (No changes in text.)

~~[(6)]~~[(7)] *Partial Post Only at Limit Order.* (No changes in text.)

~~[(7)]~~[(8)] *Pegged Order.* (No changes in text.)

~~[(8)]~~[(9)] *Mid-Point Peg Order.* (No changes in text.)

~~[(9)]~~[(10)] *Discretionary Order.* (No changes in text.)

~~[(10)]~~[(11)] *Non-Displayed Order.* (No changes in text.)

~~[(11)]~~[(12)] *Destination Specific Order.* (No changes in text.)

~~[(12)]~~[(13)] *Modified Destination Specific Order.* (No changes in text.)

(d) – (e) (No changes.)

* * * * *

Rule 11.13. Order Execution

(No change.)

(a) (No change.)

(1) (No change.)

(2) *Routing to Away Trading Centers* [Unless the terms of the order direct the Exchange not to route such order away (e.g., a BATS Only Order),] Depending on the instructions set by the User when the incoming order was originally entered, if a market or marketable limit order has not been executed in its entirety pursuant to paragraph (a)(1) above, the order shall be eligible for [routing away as follows]additional processing under one or more of the following options:

(A) *Routing of Market Orders.* If instructed by the entering User, prior to sending orders to one or more Trading Centers (as defined in Rule 2.11), such orders will be displayed at the NBB for a sell order or the NBO for a buy order to Exchange Users (and market data recipients) for potential execution for a variable period of time not to exceed 500 milliseconds, such period to be determined by the Exchange. Thereafter, the [The] System will designate market 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, 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 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)(A) by executing against the BATS Book and/or routing orders to other Trading Centers until the original, incoming order is executed in its entirety.

(B) *Routing of Marketable Limit Orders.* If instructed by the entering User, prior to sending orders to one or more Trading Centers (as defined in Rule 2.11), such orders will be displayed at the NBB for a sell order or the NBO for a buy order to Exchange Users (and market data recipients) for potential execution for a variable period of time not to exceed 500 milliseconds, such period to be determined by the Exchange. Thereafter, the [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 the order as a BATS Only Order pursuant to Rule 11.9(c)(4); (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 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. To the extent the unfilled balance of an order has been posted to the BATS Book pursuant to (a)(2)(B)(ii) of this paragraph, should the order subsequently be locked or crossed by another accessible Trading Center, the System shall route the order to the locking or crossing Trading Center if instructed to do so by a User.

(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 May 14, 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 order type, as well as another option with respect to the order processing methods offered by the Exchange in connection with routing away from the Exchange.

Specifically, both the order type and the pre-routing processing method will, after first seeking to execute against the BATS Book, display a marketable order at the NBB for a sell order or the NBO for a buy order to Exchange Users and market data recipients for a brief, variable amount of time (not to exceed 500 milliseconds) for potential execution.

BATS notes that pre-routing display functionality has already been approved by the Commission for use by the CBOE Stock Exchange and that such functionality can be expected to provide System Users with greater control over their trading. Except for the addition of a variation of the BATS Only order type and changes to the routing functionality for market and marketable limit orders described herein, nothing in the proposal will modify or alter any existing rule or process related to order priority, order execution, trade-through protection or locked or crossed markets.

(i) Proposed BATS Only BOLT Order

The proposed order type, a BATS Only BOLT Order, will first seek to execute against the BATS Book. If such order would lock or cross a Protected Quotation when entered it will be displayed at the NBB for a sell order or the NBO for a buy order to Exchange Users (and market data recipients) for potential execution for a variable time period not to exceed 500 milliseconds, such time period to be designated by the Exchange. Any unfilled balance of the order remaining after this variable period of time will be cancelled back to the User if such balance would continue to lock or cross a Protected Quotation. If, however, after the variable period of time the unfilled balance

would not lock or cross a Protected Quotation, then such unfilled balance will remain posted in the BATS Book.

(ii) Proposed BOLT Routing

The proposed order processing method, set forth in BATS Rule 11.13, will apply when an unfilled balance of a routable market or limit order that is marketable against the existing NBBO remains after the Exchange has attempted to execute the order against the BATS Book. Specifically, the Exchange proposes to offer a method of processing that can be used in conjunction with, or instead of, routing options offered by the Exchange, through which such order will be briefly displayed to Users of the Exchange (and to Exchange market data recipients) for potential execution at a price equal to the NBB for a sell order or the NBO for a buy order.

The Exchange currently allows Users to submit various types of orders to the Exchange that are processed pursuant to Rules 11.13(a)(1) and 11.13(a)(2). Rule 11.13(a)(1) describes the process by which an incoming order would execute against the BATS Book.⁵ To the extent an order has not been executed in its entirety against the BATS Book, Rule 11.13(a)(2)(A) and (B) then describe the process of routing orders⁶ to one or more Trading Centers. The Exchange proposes to offer the display process to Users as an additional option for processing the unfilled balance of an order that remains after an initial attempt to execute against the BATS Book.

Under the proposal, after first executing a market or marketable limit order against the BATS Book, any remaining shares will be displayed at the NBB for a sell

⁵ As defined in BATS Rule 1.5(d).

⁶ Market orders are routed away pursuant to Rule 11.13(a)(2)(A) and marketable limit orders are routed away pursuant to Rule 11.13(a)(2)(B).

order or the NBO for a buy order to Users of the Exchange and Exchange market data recipients for potential execution for a variable time period not to exceed 500 milliseconds, such time period to be designated by the Exchange. The BOLT routing display process will be the default processing preference, and thus, Users that do not wish to have their orders displayed pursuant to this process prior to routing will be required to opt-out of the BOLT routing display period.

(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.⁷ Specifically, the proposed change is consistent with Section 6(b)(5) of the Act,⁸ 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 select another method of processing for routable and non-routable marketable orders that may result in the efficient execution of such orders. Specifically, the Exchange believes that Users may receive more efficient order executions by briefly displaying their marketable orders to BATS Users for potential execution. BATS notes that similar brief marketable order display functionality has already been found to be consistent with the Act by the Commission.⁹

⁷ 15 U.S.C. 78f(b).

⁸ 15 U.S.C. 78f(b)(5).

⁹ See Securities Exchange Act Release No. 54422 (September 11, 2006), 71 FR 54537 (September 15, 2006) (SR-CBOE-2004-21); Securities Exchange Act

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.

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 Act¹⁰ and paragraph (f)(6) of Rule 19b-4 thereunder.¹¹ 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) 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

Release No. 59359 (February 4, 2009), 74 FR 6927 (February 11, 2009) (SR-CBOE-2008-123).

¹⁰ 15 U.S.C. 78s(b)(3)(A).

¹¹ 17 CFR 240.19b-4.

prior to the date of filing, or such shorter time as designated by the Commission.¹² Also, the Exchange believes that the proposed display process, both in the context of the proposed BATS Only BOLT Order and the BOLT routing display, does not present any policy issues that have not previously been considered by the Commission. In particular, with respect to the display process, BATS believes it is analogous to the pre-routing display process approved by the Commission and offered by the CBOE Stock Exchange.¹³ 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.

The Exchange requests that the Commission waive the five business day pre-filing requirement and the 30-day pre-operative waiting period contained in Rule 19b-4(f)(6)(iii) under the Act.¹⁴ The Exchange believes that implementation of the proposed order handling described in this filing will permit it to remain competitive with another market center that has recently adopted a similar rule pursuant to an immediately effective rule filing.¹⁵ In addition, the Exchange requests this waiver because it expects to have technological changes in place to support the proposed rule change on or about

¹² 17 CFR 240.19b-4(f)(6)(iii).

¹³ NASDAQ also recently adopted a similar rule pursuant to an immediately effective rule filing. See Securities Exchange Act Release No. 59875 (May 6, 2009), 74 FR 22794 (May 14, 2009) (SR-NASDAQ-2009-043) (notice of filing and immediate effectiveness of NASDAQ proposal to incorporate an optional pre-routing display period for all orders using NASDAQ routing strategies).

¹⁴ 17 CFR 240.19b-4(f)(6)(iii).

¹⁵ See Securities Exchange Act Release No. 59875 (May 6, 2009), 74 FR 22794 (May 14, 2009) (SR-NASDAQ-2009-043) (notice of filing and immediate effectiveness of NASDAQ proposal to incorporate an optional pre-routing display period for all orders using NASDAQ routing strategies).

June 5, 2009, and that benefits to Exchange Users expected from the proposed rule change should not be delayed.

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.

EXHIBIT 1

SECURITIES AND EXCHANGE COMMISSION

(Release No. 34-_____; File No. SR-BATS-2009-014)

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 22, 2009, 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 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 add a new order type (a “BATS Only BOLT Order”) and a pre-routing processing method (“BOLT Routing”) that will each include an optional display period through which a marketable order will be displayed to Exchange Users (and market data

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).

recipients) for a brief period of time designated by the Exchange prior to being routed, cancelled, or posted to the BATS Book.

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 order type, as well as another option with respect to the order processing methods offered by the Exchange in connection with routing away from the Exchange.

Specifically, both the order type and the pre-routing processing method will, after first seeking to execute against the BATS Book, display a marketable order at the NBB for a sell order or the NBO for a buy order to Exchange Users and market data recipients for a brief, variable amount of time (not to exceed 500 milliseconds) for potential execution.

BATS notes that pre-routing display functionality has already been approved by the Commission for use by the CBOE Stock Exchange and that such functionality can be expected to provide System Users with greater control over their trading. Except for the

addition of a variation of the BATS Only order type and changes to the routing functionality for market and marketable limit orders described herein, nothing in the proposal will modify or alter any existing rule or process related to order priority, order execution, trade-through protection or locked or crossed markets.

(i) Proposed BATS Only BOLT Order

The proposed order type, a BATS Only BOLT Order, will first seek to execute against the BATS Book. If such order would lock or cross a Protected Quotation when entered it will be displayed at the NBB for a sell order or the NBO for a buy order to Exchange Users (and market data recipients) for potential execution for a variable time period not to exceed 500 milliseconds, such time period to be designated by the Exchange. Any unfilled balance of the order remaining after this variable period of time will be cancelled back to the User if such balance would continue to lock or cross a Protected Quotation. If, however, after the variable period of time the unfilled balance would not lock or cross a Protected Quotation, then such unfilled balance will remain posted in the BATS Book.

(ii) Proposed BOLT Routing

The proposed order processing method, set forth in BATS Rule 11.13, will apply when an unfilled balance of a routable market or limit order that is marketable against the existing NBBO remains after the Exchange has attempted to execute the order against the BATS Book. Specifically, the Exchange proposes to offer a method of processing that can be used in conjunction with, or instead of, routing options offered by the Exchange, through which such order will be briefly displayed to Users of the Exchange (and to

Exchange market data recipients) for potential execution at a price equal to the NBB for a sell order or the NBO for a buy order.

The Exchange currently allows Users to submit various types of orders to the Exchange that are processed pursuant to Rules 11.13(a)(1) and 11.13(a)(2). Rule 11.13(a)(1) describes the process by which an incoming order would execute against the BATS Book.⁵ To the extent an order has not been executed in its entirety against the BATS Book, Rule 11.13(a)(2)(A) and (B) then describe the process of routing orders⁶ to one or more Trading Centers. The Exchange proposes to offer the display process to Users as an additional option for processing the unfilled balance of an order that remains after an initial attempt to execute against the BATS Book.

Under the proposal, after first executing a market or marketable limit order against the BATS Book, any remaining shares will be displayed at the NBB for a sell order or the NBO for a buy order to Users of the Exchange and Exchange market data recipients for potential execution for a variable time period not to exceed 500 milliseconds, such time period to be designated by the Exchange. The BOLT routing display process will be the default processing preference, and thus, Users that do not wish to have their orders displayed pursuant to this process prior to routing will be required to opt-out of the BOLT routing display period.

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

⁵ As defined in BATS Rule 1.5(d).

⁶ Market orders are routed away pursuant to Rule 11.13(a)(2)(A) and marketable limit orders are routed away pursuant to Rule 11.13(a)(2)(B).

securities exchange, and, in particular, with the requirements of Section 6(b) of the Act.⁷ Specifically, the proposed change is consistent with Section 6(b)(5) of the Act,⁸ 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 select another method of processing for routable and non-routable marketable orders that may result in the efficient execution of such orders. Specifically, the Exchange believes that Users may receive more efficient order executions by briefly displaying their marketable orders to BATS Users for potential execution. BATS notes that similar brief marketable order display functionality has already been found to be consistent with the Act by the Commission.⁹

(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.

⁷ 15 U.S.C. 78f(b).

⁸ 15 U.S.C. 78f(b)(5).

⁹ Securities Exchange Act Release No. 54422 (September 11, 2006), 71 FR 54537 (September 15, 2006) (SR-CBOE-2004-21); Securities Exchange Act Release No. 59359 (February 4, 2009), 74 FR 6927 (February 11, 2009) (SR-CBOE-2008-123). NASDAQ also recently adopted a similar rule pursuant to an immediately effective rule filing. See Securities Exchange Act Release No. 59875 (May 6, 2009), 74 FR 22794 (May 14, 2009) (SR-NASDAQ-2009-043) (notice of filing and immediate effectiveness of NASDAQ proposal to incorporate an optional pre-routing display period for all orders using NASDAQ routing strategies).

(C) Self-Regulatory Organization's Statement of 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.

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

The Exchange has designated this rule filing as non-controversial under Section 19(b)(3)(A) of the Act¹⁰ and paragraph (f)(6) of Rule 19b-4 thereunder.¹¹ 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, it has become effective pursuant to Section 19(b)(3)(A) of the Act¹² and Rule 19b-4(f)(6) thereunder.¹³ 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.¹⁴

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

¹⁰ 15 U.S.C. 78s(b)(3)(A).

¹¹ 17 CFR 240.19b-4.

¹² 15 U.S.C. 78s(b)(3)(A).

¹³ 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6)(iii) 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.

¹⁴ 17 CFR 240.19b-4(f)(6)(iii).

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-2009-014 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 No. SR-BATS-2009-014. 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-2009-014 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.¹⁵

Florence E. Harmon
Deputy Secretary

¹⁵ 17 CFR 200.30-3(a)(12).