

SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

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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 remove an order type (a “BATS Only BOLT Order”) and processing method (“BOLT Routing”) that each provide an optional display period through which a marketable order is 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 requests that the Commission waive the five business day pre-filing notice required by Rule 19b-4(f)(6)(iii) under the Act.³ The Exchange also requests that the Commission waive the 30-day pre-operative waiting period contained in Rule 19b-4(f)(6)(iii).⁴ If such waivers are granted by the Commission, the Exchange shall implement this rule proposal on September 1, 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.*

(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.] (Reserved.)

(6) – (13) (No changes.)

(d) – (f) (No changes.)

* * * * *

Rule 11.13. Order Execution

(No change.)

(a) (No change.)

(1) (No change.)

(2) *Routing to Away Trading Centers.* 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 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 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 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.)

[Interpretations and Policies:

.01 BATS Only BOLT Orders and routable orders will be distinguishable from the Exchange's Protected Bid and Protected Offer while displayed by the Exchange for potential execution during the variable time period described in Rule 11.9(c)(5) and paragraphs (a)(2)(A) and (B) of this Rule.]

* * * * *

(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 August 18, 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 remove language which allows marketable orders to be displayed to Exchange Users (and market data recipients) prior to being routed, cancelled, or posted to the BATS Book. Specifically, the Exchange currently offers both an order type and a pre-routing processing method that, after first seeking to execute against the BATS Book, permit the order to be displayed as 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.

(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.⁵ Specifically, the proposed change is consistent with Section 6(b)(5) of the Act,⁶ 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.

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

Not applicable.

⁵ 15 U.S.C. 78f(b).

⁶ 15 U.S.C. 78f(b)(5).

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 Act⁷ and paragraph (f)(6) of Rule 19b-4 thereunder.⁸ 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, or such shorter time as designated by the Commission.⁹

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.¹⁰ The Exchange requests this waiver because it plans to stop supporting the order type and pre-routing processing method that are being deleted through the proposal as of September 1, 2009.

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

Not applicable.

⁷ 15 U.S.C. 78s(b)(3)(A).

⁸ 17 CFR 240.19b-4.

⁹ 17 CFR 240.19b-4(f)(6)(iii).

¹⁰ 17 CFR 240.19b-4(f)(6)(iii).

9. Exhibits

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

Exhibits 2 – 5: Not applicable.

EXHIBIT 1

SECURITIES AND EXCHANGE COMMISSION

(Release No. 34-_____; File No. SR-BATS-2009-028)

Self-Regulatory Organizations; BATS Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Amend BATS Rule 11.9, entitled “Orders and Modifiers,” and 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 August 21, 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 Rules 11.9, entitled “Orders and Modifiers,” and 11.13, entitled “Order Execution,” to remove an order type (a “BATS Only BOLT Order”) and processing method (“BOLT Routing”) that each provide an optional display period through which a marketable order is displayed to Exchange Users

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).

(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 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 purpose of the proposed rule change is to remove language which allows marketable orders to be displayed to Exchange Users (and market data recipients) prior to being routed, cancelled, or posted to the BATS Book. Specifically, the Exchange currently offers both an order type and a pre-routing processing method that, after first seeking to execute against the BATS Book, permit the order to be displayed as 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.

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.⁵ Specifically, the proposed change is consistent with Section 6(b)(5) of the Act,⁶ 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.

(B) Self-Regulatory Organization's Statement on 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 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

The Exchange has designated this rule filing as non-controversial under Section 19(b)(3)(A) of the Act⁷ and paragraph (f)(6) of Rule 19b-4 thereunder.⁸ 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

⁵ 15 U.S.C. 78f(b).

⁶ 15 U.S.C. 78f(b)(5).

⁷ 15 U.S.C. 78s(b)(3)(A).

⁸ 17 CFR 240.19b-4.

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 Act⁹ and Rule 19b-4(f)(6) thereunder.¹⁰ 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, or such shorter time as designated by the Commission.¹¹

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-2009-028 on the subject line.

⁹ 15 U.S.C. 78s(b)(3)(A).

¹⁰ 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.

¹¹ 17 CFR 240.19b-4(f)(6)(iii).

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-2009-028. 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-2009-028 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.¹²

Florence E. Harmon
Deputy Secretary

¹² 17 CFR 200.30-3(a)(12).