

Required fields are shown with yellow backgrounds and asterisks.

Page 1 of * 15	SECURITIES AND EXCHANGE COMMISSION WASHINGTON, D.C. 20549 Form 19b-4	File No.* SR - 2010 - * 028	Amendment No. (req. for Amendments *)
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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"/>
			Rule		
Pilot <input type="checkbox"/>	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 <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, required when Initial is checked \*).  
Proposed rule change to amend the Rules of BATS Exchange, Inc. to conform to the rules of the Exchange's affiliate, BATS Y-Exchange, Inc.

**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 \* Anders Last Name \* Franzon  
Title \* VP, Associate General Counsel  
E-mail \* afranzon@batstrading.com  
Telephone \* (913) 815-7154 Fax (913) 815-7119

**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 10/06/2010  
By Anders Franzon (Name \*) VP, Associate General Counsel (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.

Anders Franzon,

SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, D.C. 20549

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

**Form 19b-4 Information (required)**

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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 (required)**

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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”),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> BATS Exchange, Inc. (the “Exchange” or “BATS”) is filing with the Securities and Exchange Commission (the “Commission”) a proposed rule change to amend BATS Rule 2.3 to clarify that a broker or dealer must be a member of another national securities exchange or association other than BATS Y-Exchange, Inc. (“BYX”) in order to become or remain a Member of the Exchange, to remove the text of Rule 2.4 because the waive-in period for the Exchange has expired, and to make a technical correction to BATS Rule 14.5. 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.<sup>3</sup> The Exchange requests that the Commission waive the 30-day pre-operative waiting period contained in Rule 19b-4(f)(6)(iii).<sup>4</sup> If such waiver is granted by the Commission, the Exchange shall implement this rule proposal on October 15, 2010.

(a) The text of the proposed rule change is attached as Exhibit 5. Material proposed to be added is underlined. Material proposed to be deleted is enclosed in brackets.

(b) Not applicable.

(c) Not applicable.

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<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> 17 CFR 240.19b-4(f)(6)(iii).

<sup>4</sup> Id.

2. Procedures of the Self-Regulatory Organization

The proposed rule change was approved by senior management of the Exchange pursuant to authority delegated by the Board of Directors of the Exchange on November 10, 2009. Exchange staff will advise the BATS Exchange Board of Directors of any action taken pursuant to delegated authority. No other action is necessary for the filing of the rule change.

Questions regarding this rule filing may be directed to Eric Swanson, Senior Vice President and General Counsel of the Exchange at (913) 815-7000.

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

(a) Purpose

The Exchange proposes to amend BATS Rule 2.3 to clarify that a broker or dealer be a member of another national securities exchange or association other than or in addition to the Exchange's affiliate, BYX, in order to become or remain a Member of the Exchange. The Exchange also proposes to remove the text of BATS Rule 2.4 because the rule has become obsolete as the period for submission of a waive-in membership application has expired. Lastly, the Exchange proposes to make a technical correction to BATS Rule 14.5(c) to replace a reference to "Commodity-Based Trust Shares" with "Currency Trust Shares".

Amend Rule 2.3 to Reflect Existence of BATS Y-Exchange

The Exchange requires all of its Members to be a member of at least one other national securities association or national securities exchange. The proposed change would make clear that this requirement is not satisfied simply by joining the Exchange's affiliated exchange, BYX. Rather, as the proposed language indicates, each Member that

is a registered broker or dealer must be a member of another registered national securities exchange or association other than or in addition to BYX.

Deletion of Obsolete Rule – BATS Rule 2.4

As approved by the Commission as part of the Exchange's Form 1 application, BATS Rules include provisions that permitted current or former subscribers to the electronic communications network formerly operated by BATS Trading, Inc. to apply to become a Member of the Exchange by submitting a "waive-in application" within ninety (90) days of approval of the Form 1 by the Commission. The Commission approved the Exchange's Form 1 application on August 18, 2008, meaning that waive-in membership applications must have been received by the Exchange on or prior to November 16, 2008. Accordingly, BATS Rule 2.4 is obsolete, and thus, the Exchange proposes to delete such rule.

Correct Improper Term in BATS Rule 14.5(c)

Lastly, the Exchange proposes to correct language in BATS Rule 14.5(c) to replace an incorrect reference to "Commodity-Based Trust Shares" with "Currency Trust Shares".

(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.<sup>5</sup> Specifically, the Exchange believes that the proposed changes are consistent with Section

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<sup>5</sup> 15 U.S.C. 78f(b).

6(b)(5) of the Act,<sup>6</sup> because they 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

This 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.

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 Act<sup>7</sup> and paragraph (f)(6) of Rule 19b-4 thereunder.<sup>8</sup> 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. 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

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<sup>6</sup> 15 U.S.C. 78f(b)(5).

<sup>7</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>8</sup> 17 CFR 240.19b-4.

date of filing, or such shorter time as the Commission may designate.<sup>9</sup> In addition, the Exchange believes that the proposed rule changes are clean-up changes that do not raise any new or novel issues. Furthermore, the proposed changes to Rules 2.3 and 14.5 will align the Exchange's rules with the approved rules of its affiliate, BYX. 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 noted above, the Exchange believes that this proposal cleans up and clarifies several of BATS Rules and does not raise any new or novel issues that should prevent it from becoming effective upon filing. Additionally, other than removal of reference to the waive-in period, which is still applicable for BYX, the proposed changes will make the Exchange's rules substantively identical to the equity trading rules of BYX prior to the date that BYX commences operations. Accordingly, 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.<sup>10</sup> 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 Rules 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.

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<sup>9</sup> 17 CFR 240.19b-4(f)(6)(iii).

<sup>10</sup> 17 CFR 240.19b-4(f)(6)(iii).

EXHIBIT 1

## SECURITIES AND EXCHANGE COMMISSION

(Release No. 34-\_\_\_\_\_ ; File No. SR-BATS-2010-028)

Self-Regulatory Organizations; BATS Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposal to Make Clean Up Changes by Amending Certain Rules.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the “Act”),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on October 6, 2010, BATS Exchange, Inc. (the “Exchange” or “BATS”) filed with the Securities and Exchange Commission (the “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 Act<sup>3</sup> and Rule 19b-4(f)(6)(iii) thereunder,<sup>4</sup> 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 2.3 to clarify that a broker or dealer must be a member of another national securities exchange or association other than BATS Y-Exchange, Inc. (“BYX”) in order to become or remain a Member of the Exchange, to remove the text of Rule 2.4 because the waive-in period for the Exchange has expired, and to make a technical correction to BATS Rule 14.5. The text of the

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<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>4</sup> 17 CFR 240.19b-4(f)(6)(iii).

proposed rule change is available at the Exchange's Web site at <http://www.batstrading.com>, at the principal office of the Exchange, and at the Commission's Public Reference Room.

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

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant parts of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend BATS Rule 2.3 to clarify that a broker or dealer be a member of another national securities exchange or association other than or in addition to the Exchange's affiliate, BYX, in order to become or remain a Member of the Exchange. The Exchange also proposes to remove the text of BATS Rule 2.4 because the rule has become obsolete as the period for submission of a waive-in membership application has expired. Lastly, the Exchange proposes to make a technical correction to BATS Rule 14.5(c) to replace a reference to "Commodity-Based Trust Shares" with "Currency Trust Shares".

Amend Rule 2.3 to Reflect Existence of BATS Y-Exchange

The Exchange requires all of its Members to be a member of at least one other national securities association or national securities exchange. The proposed change would make clear that this requirement is not satisfied simply by joining the Exchange's

affiliated exchange, BYX. Rather, as the proposed language indicates, each Member that is a registered broker or dealer must be a member of another registered national securities exchange or association other than or in addition to BYX.

Deletion of Obsolete Rule – BATS Rule 2.4

As approved by the Commission as part of the Exchange's Form 1 application, BATS Rules include provisions that permitted current or former subscribers to the electronic communications network formerly operated by BATS Trading, Inc. to apply to become a Member of the Exchange by submitting a "waive-in application" within ninety (90) days of approval of the Form 1 by the Commission. The Commission approved the Exchange's Form 1 application on August 18, 2008, meaning that waive-in membership applications must have been received by the Exchange on or prior to November 16, 2008. Accordingly, BATS Rule 2.4 is obsolete, and thus, the Exchange proposes to delete such rule.

Correct Improper Term in BATS Rule 14.5(c)

Lastly, the Exchange proposes to correct language in BATS Rule 14.5(c) to replace an incorrect reference to "Commodity-Based Trust Shares" with "Currency Trust Shares".

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.<sup>5</sup> Specifically, the Exchange believes that the proposed changes are consistent with Section

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<sup>5</sup> 15 U.S.C. 78f(b).

6(b)(5) of the Act,<sup>6</sup> because they 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

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 Act<sup>7</sup> and Rule 19b-4(f)(6)(iii) thereunder.<sup>8</sup>

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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<sup>6</sup> 15 U.S.C. 78f(b)(5).

<sup>7</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>8</sup> 17 CFR 240.19b-4(f)(6).

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](mailto:rule-comments@sec.gov). Please include File No. SR-BATS-2010-028 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-2010-028. 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 Web site viewing and printing 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-2010-028 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.<sup>9</sup>

Florence E. Harmon  
Deputy Secretary

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<sup>9</sup> 17 CFR 200.30-3(a)(12).

Note: Proposed new language is underlined. Proposed deletions are enclosed in [brackets].

**Rules of BATS Exchange, Inc.**

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**CHAPTER II. MEMBERS OF THE EXCHANGE**

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Rule 2.3. Member Eligibility

Except as hereinafter provided, any registered broker or dealer which is a member of another registered national securities exchange or association (other than or in addition to the Exchange's affiliate, BATS Y-Exchange, Inc.) or any person associated with such a registered broker or dealer shall be eligible to be, and to remain, a Member of the Exchange.

Rule 2.4. (Reserved)[Application Process and Waive-In

For a temporary period beginning on the date the Exchange is approved by the SEC as a national securities exchange and ending 90 days after such date, an applicant that is an active member of FINRA or a registered national securities exchange and is a current or former subscriber to the electronic communications network operated by BATS Trading, Inc., shall have the option to:

- (a) apply to become a Member, and
- (b) apply to automatically register with Exchange all of its associated persons
  - (1) whose registrations are active at the time the Exchange is approved as a national securities exchange, and
  - (2) who are registered in categories recognized by the Exchange,

by submitting a waive-in application form as prescribed by the Exchange, including an agreement or agreements conforming with Rule 2.6(a)(1) through (a)(5). The Exchange may request additional documentation in addition to the waive-in application form in order to determine that a waive-in applicant meets the qualification standards set forth in Rule 2.5.]

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**CHAPTER XIV. SECURITIES TRADED**

\* \* \*

Rule 14.5 Currency Trust Shares

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

(c) *Prospectus Delivery.* Members must provide to all purchasers of newly issued Currency Trust Receipts a prospectus for the series of [Commodity-Based Trust Shares]Currency Trust Shares.

(d) – (k) (No changes.)

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