

Required fields are shown with yellow backgrounds and asterisks.

Page 1 of * <input type="text" value="22"/>	SECURITIES AND EXCHANGE COMMISSION WASHINGTON, D.C. 20549 Form 19b-4	File No.* SR - <input type="text" value="2011"/> - * <input type="text" value="017"/> Amendment No. (req. for Amendments *) <input type="text"/>
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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"/>
Pilot <input type="checkbox"/> Extension of Time Period for Commission Action * <input type="text"/> <small>☐</small>			Rule <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 \*).

Proposal to continue to make available those data feeds provided by the Exchange to data recipients without charge and to start making available the Latency Monitoring feed, which will also be available without charge.

**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 (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” or the “Exchange 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 (“Commission”) a proposed rule change to continue to make available those data feeds provided by the Exchange to data recipients<sup>3</sup> without charge and to start making available the Latency Monitoring feed, which will also be available without charge. The Exchange also proposes to add language to its Rules to memorialize those data feeds that have already been approved by the Commission.<sup>4</sup> 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>5</sup> The Exchange requests that the Commission waive the 30-day operative delay contained in Rule 19b-4(f)(6)(iii) under the Act.<sup>6</sup> If such waiver is granted by the Commission, the Exchange shall implement this rule proposal immediately.

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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> Exchange data recipients include Members of the Exchange as well as non-Members that have entered into an agreement with the Exchange that permits them to receive Exchange data.

<sup>4</sup> BATS has separately filed a rule proposal and received approval to offer certain data products for which it assesses a fee but, outside of its fee schedule, did not propose written rules related to such data products. See Securities Exchange Act Release No. 61885 (April 9, 2010), 75 FR 10332 (April 16, 2010).

<sup>5</sup> 17 CFR 240.19b-4(f)(6)(iii).

<sup>6</sup> Id.

(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.

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 Board of Directors of the Exchange 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 purpose of the proposed rule change is to continue to make available, without charge, several of the Exchange's data feeds for receipt by Exchange data recipients. In addition, the Exchange proposes to introduce a new feed, the Latency Monitoring feed, which will also be available without charge. The free data feeds offered and proposed to be offered by the Exchange include: (i) TCP PITCH; (ii) TCP FAST PITCH; (iii) Multicast PITCH; (iv) TOP; (v) DROP; (vi) Historical data; and (vii) Latency Monitoring (collectively, the "Data Feeds"). Lastly, the Exchange proposes to add language to its

Rules to memorialize those data feeds that have already been approved by the Commission (specifically, the Last Sale Feed and historical data for equities).<sup>7</sup>

The Exchange provides detailed and up to date technical information regarding each of the Data Feeds currently offered by the Exchange on its public website.<sup>8</sup> All orders and executions displayed through the Data Feeds are anonymous and do not contain the identity of the party that submitted the order.

By making the Data Feeds available free of charge, the Exchange believes that it enhances market transparency and fosters competition among orders and markets. At this time, the Exchange does not have plans to charge any fee associated with the receipt of the Data Feeds.<sup>9</sup> Of course, should the Exchange determine to charge fees associated with the Data Feeds, the Exchange will submit a proposed rule change to the Commission in order to implement those fees.

Below is a description of each of the Data Feeds. As specified in the descriptions below, the Data Feeds are applicable either to the Exchange's equity securities platform ("BATS Equities"), its equity options platform ("BATS Options"), or both.

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<sup>7</sup> See supra note 4.

<sup>8</sup> <http://www.batstrading.com/support/#menu-md-docs>.

<sup>9</sup> The Exchange does not charge directly for any of the Data Feeds, though it does charge for ports used for receipt of data from the Exchange in order to offset certain infrastructure costs. These fees apply to ports associated with receipt of all of the Data Feeds except for Multicast PITCH, recipients of which are provided with 12 pairs of the requisite ports free of charge. See Securities Exchange Act Release No. 60586 (August 28, 2009), 74 FR 46256 (September 8, 2009) (SR-BATS-2009-026) (order approving proposal to impose fees for ports used for order entry and receipt of market data); see also Securities Exchange Act Release No. 63857 (February 7, 2011), 76 FR 7891 (February 11, 2011) (SR-BATS-2011-004) (notice of filing and immediate effectiveness of proposed rule change related to BATS Exchange fees, including modification of port fees).

(i) TCP PITCH

The BATS TCP PITCH data feed is available for BATS Equities only, and provides Exchange data recipients with depth of book quotations and execution information based on equity orders entered into the System<sup>10</sup> on an uncompressed feed. The PITCH feeds offered by BATS (including TCP FAST PITCH and Multicast PITCH) are the data feeds through which Exchange data recipients can receive full, real-time quotation and execution information. Each PITCH message reflects the addition, deletion or execution of an order in the System. TCP PITCH is the data feed used by Exchange data recipients to receive BATS PITCH information via a TCP/IP connection.

(ii) TCP FAST PITCH

The BATS TCP FAST PITCH data feed is available for BATS Equities only. The TCP FAST PITCH data feed, like TCP PITCH, offers depth of book quotations and execution information, however, unlike TCP PITCH, this data feed is compressed and packaged by BATS prior to transmission and is translated by the recipient. The Exchange plans to cease offering TCP FAST PITCH effective July 1, 2011.

(iii) Multicast PITCH

The BATS Multicast PITCH data feed is available for BATS Equities and BATS Options. The Multicast PITCH data feed, like TCP PITCH and TCP FAST PITCH, offers depth of book quotations and execution information, however, unlike BATS' other PITCH data feeds, this data feed is transmitted in a manner that can be processed more efficiently by recipients.

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<sup>10</sup> As defined in BATS Rule 1.5(aa), the term "System" means "the electronic communications and trading facility designated by the Board through which securities orders of Users are consolidated for ranking, execution and, when applicable, routing away."

(iv) TOP

The BATS TOP data feed is available for BATS Equities only, and offers top of book quotations and last sale execution information based on equity orders entered into the System. By only providing top of book quotations and last sale information, TOP offers data recipients a significant reduction in required bandwidth and processing when compared to BATS' standard TCP PITCH data feed. The quotations made available via TOP provide an aggregated size and do not indicate the size or number of individual orders at the best bid or ask.

(v) DROP

The BATS DROP data feed is available for BATS Equities and BATS Options. BATS' DROP data feed offers information regarding the trading activity of a specific Member. This feed is typically used by Members or clearing firms to monitor trading activity. DROP information is only available to the Member to whom the specific data relates and those recipients expressly authorized by the Member, such as the Member's clearing firm or a third-party vendor who provides services to the Member. The Exchange offers two forms of DROP, one of which provides a record for each execution and the other of which provides a record of each order and each execution.

(vi) Historical Multicast PITCH

The BATS Historical Multicast PITCH data product is available for both BATS Equities and BATS Options, and offers up to three months of data on a T+1 basis. Such information can be downloaded from the Exchange's website. In addition, upon request, the Exchange provides data recipients with historical data on external hard drives. Although the Exchange charges for historical data related to its equity securities platform,

Historical Multicast PITCH data related to BATS Options is made available to Exchange data recipients without charge. Historical data provided by the Exchange can be used for a variety of purposes. For instance, data recipients that wish to back-test certain trading strategies can use historical data for such purpose.

(vii) Latency Monitoring

The BATS Latency Monitoring data product will initially be available for BATS Equities only. The Latency Monitoring data product will offer real-time latency information based on equity orders entered into the System to data recipients on an uncompressed feed. This data feed will provide various statistics to data recipients based on the latency from when an order enters the BATS network until the time that the order appears on a particular BATS data feed. The Exchange will initially present various statistics aggregated across the exchange and also separated by matching engine unit including minimum latency, maximum latency, average latency, standard deviation, and the number of samples observed. The Exchange may add additional aggregate statistics in the future. In addition, the Exchange may also add other latency measures to the data feed in the future, to the extent a different method becomes relevant. The latency data will not be member or port specific. This data feed does not include any quotation or execution information.

(b) Statutory Basis

Approval of 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>11</sup> In particular, the proposed change is consistent with Section 6(b)(5) of the Act,<sup>12</sup> 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. Specifically, the Exchange believes that this proposal is in keeping with those principles by promoting increased transparency through the dissemination of BATS equity and options market data along with information regarding the Exchange's internal latencies.

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 Act<sup>13</sup> and paragraph (f)(6) of Rule 19b-4 thereunder.<sup>14</sup> The Exchange

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<sup>11</sup> 15 U.S.C. 78f(b).

<sup>12</sup> 15 U.S.C. 78f(b)(5).

<sup>13</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>14</sup> 17 CFR 240.19b-4.

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.<sup>15</sup>

The Exchange believes that the proposed filing is non-controversial because: (i) the Data Feeds are very similar to those products currently available from other exchanges; (ii) the Exchange currently makes the Data Feeds available for free; and (iii) the receipt and use of the Data Feeds is strictly voluntary. Accordingly, the Exchange has designated this rule filing as non-controversial under Section 19(b)(3)(A) of the Act<sup>16</sup> and paragraph (f)(6) of Rule 19b-4 thereunder.<sup>17</sup>

The Exchange respectfully requests that the Commission waive the 30-day operative delay so that the proposed rule change may become effective and operative upon filing with the Commission pursuant to Section 19(b)(3)(A) of the Act<sup>18</sup> and paragraph (f)(6) of Rule 19b-4 thereunder.<sup>19</sup> Specifically, the Exchange believes that, because the majority of the Data Feeds are already available, strictly voluntary, and free

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<sup>15</sup> 17 CFR 240.19b-4(f)(6)(iii).

<sup>16</sup> 15 U.S.C. 78s(b)(3)(A).

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

<sup>18</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>19</sup> 17 CFR 240.19b-4(f)(6).

to receive, waiver of the 30-day pre-operative delay is consistent with Rule 19b-4(f)(6).<sup>20</sup> The Exchange also believes that waiver of the 30-day pre-operative delay is consistent with Rule 19b-4(f)(6)<sup>21</sup> because the Latency Monitoring feed is ready for distribution, strictly voluntary, free to receive, and contains only information related to latency of the System, not market data. Waiver of this requirement will allow the Exchange to continue providing market participants that use the Data Feeds with useful real-time and historical data concerning orders that have been entered, executions that have occurred, and the latency of the System, consistent with other products currently provided by other exchanges. Waiver of the 30-day pre-operative delay is consistent with the protection of investors and the public interest for the reasons described above.

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.

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 – 4: Not applicable.

Exhibit 5: Text of Proposed Rule Change.

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<sup>20</sup> Id.

<sup>21</sup> Id.

EXHIBIT 1

## SECURITIES AND EXCHANGE COMMISSION

(Release No. 34-\_\_\_\_\_; File No. SR-BATS-2011-017)

Self-Regulatory Organizations; BATS Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Add BATS Rule 11.22, entitled “Data Products.”

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 May 5, 2011, 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 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 continue to make available those data feeds provided by the Exchange to data recipients<sup>5</sup> without charge and to start making available the Latency Monitoring feed, which will also be available without charge. The Exchange

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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).

<sup>5</sup> Exchange data recipients include Members of the Exchange as well as non-Members that have entered into an agreement with the Exchange that permits them to receive Exchange data.

also proposes to add language to its Rules to memorialize those data feeds that have already been approved by the Commission.<sup>6</sup>

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 continue to make available, without charge, several of the Exchange's data feeds for receipt by Exchange data recipients. In addition, the Exchange proposes to introduce a new feed, the Latency Monitoring feed, which will also be available without charge. The free data feeds offered and proposed to be offered by the Exchange include: (i) TCP PITCH; (ii) TCP FAST PITCH; (iii) Multicast PITCH; (iv) TOP; (v) DROP; (vi) Historical data; and (vii) Latency Monitoring

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<sup>6</sup> BATS has separately filed a rule proposal and received approval to offer certain data products for which it assesses a fee but, outside of its fee schedule, did not propose written rules related to such data products. See Securities Exchange Act Release No. 61885 (April 9, 2010), 75 FR 10332 (April 16, 2010).

(collectively, the “Data Feeds”). Lastly, the Exchange proposes to add language to its Rules to memorialize those data feeds that have already been approved by the Commission (specifically, the Last Sale Feed and historical data for equities).<sup>7</sup>

The Exchange provides detailed and up to date technical information regarding each of the Data Feeds currently offered by the Exchange on its public website.<sup>8</sup> All orders and executions displayed through the Data Feeds are anonymous and do not contain the identity of the party that submitted the order.

By making the Data Feeds available free of charge, the Exchange believes that it enhances market transparency and fosters competition among orders and markets. At this time, the Exchange does not have plans to charge any fee associated with the receipt of the Data Feeds.<sup>9</sup> Of course, should the Exchange determine to charge fees associated with the Data Feeds, the Exchange will submit a proposed rule change to the Commission in order to implement those fees.

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<sup>7</sup> See supra note 4.

<sup>8</sup> <http://www.batstrading.com/support/#menu-md-docs>.

<sup>9</sup> The Exchange does not charge directly for any of the Data Feeds, though it does charge for ports used for receipt of data from the Exchange in order to offset certain infrastructure costs. These fees apply to ports associated with receipt of all of the Data Feeds except for Multicast PITCH, recipients of which are provided with 12 pairs of the requisite ports free of charge. See Securities Exchange Act Release No. 60586 (August 28, 2009), 74 FR 46256 (September 8, 2009) (SR-BATS-2009-026) (order approving proposal to impose fees for ports used for order entry and receipt of market data); see also Securities Exchange Act Release No. 63857 (February 7, 2011), 76 FR 7891 (February 11, 2011) (SR-BATS-2011-004) (notice of filing and immediate effectiveness of proposed rule change related to BATS Exchange fees, including modification of port fees).

Below is a description of each of the Data Feeds. As specified in the descriptions below, the Data Feeds are applicable either to the Exchange's equity securities platform ("BATS Equities"), its equity options platform ("BATS Options"), or both.

(i) TCP PITCH

The BATS TCP PITCH data feed is available for BATS Equities only, and provides Exchange data recipients with depth of book quotations and execution information based on equity orders entered into the System<sup>10</sup> on an uncompressed feed. The PITCH feeds offered by BATS (including TCP FAST PITCH and Multicast PITCH) are the data feeds through which Exchange data recipients can receive full, real-time quotation and execution information. Each PITCH message reflects the addition, deletion or execution of an order in the System. TCP PITCH is the data feed used by Exchange data recipients to receive BATS PITCH information via a TCP/IP connection.

(ii) TCP FAST PITCH

The BATS TCP FAST PITCH data feed is available for BATS Equities only. The TCP FAST PITCH data feed, like TCP PITCH, offers depth of book quotations and execution information, however, unlike TCP PITCH, this data feed is compressed and packaged by BATS prior to transmission and is translated by the recipient. The Exchange plans to cease offering TCP FAST PITCH effective July 1, 2011.

(iii) Multicast PITCH

The BATS Multicast PITCH data feed is available for BATS Equities and BATS Options. The Multicast PITCH data feed, like TCP PITCH and TCP FAST PITCH, offers

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<sup>10</sup> As defined in BATS Rule 1.5(aa), the term "System" means "the electronic communications and trading facility designated by the Board through which securities orders of Users are consolidated for ranking, execution and, when applicable, routing away."

depth of book quotations and execution information, however, unlike BATS' other PITCH data feeds, this data feed is transmitted in a manner that can be processed more efficiently by recipients.

(iv) TOP

The BATS TOP data feed is available for BATS Equities only, and offers top of book quotations and last sale execution information based on equity orders entered into the System. By only providing top of book quotations and last sale information, TOP offers data recipients a significant reduction in required bandwidth and processing when compared to BATS' standard TCP PITCH data feed. The quotations made available via TOP provide an aggregated size and do not indicate the size or number of individual orders at the best bid or ask.

(v) DROP

The BATS DROP data feed is available for BATS Equities and BATS Options. BATS' DROP data feed offers information regarding the trading activity of a specific Member. This feed is typically used by Members or clearing firms to monitor trading activity. DROP information is only available to the Member to whom the specific data relates and those recipients expressly authorized by the Member, such as the Member's clearing firm or a third-party vendor who provides services to the Member. The Exchange offers two forms of DROP, one of which provides a record for each execution and the other of which provides a record of each order and each execution.

(vi) Historical Multicast PITCH

The BATS Historical Multicast PITCH data product is available for both BATS Equities and BATS Options, and offers up to three months of data on a T+1 basis. Such

information can be downloaded from the Exchange's website. In addition, upon request, the Exchange provides data recipients with historical data on external hard drives.

Although the Exchange charges for historical data related to its equity securities platform, Historical Multicast PITCH data related to BATS Options is made available to Exchange data recipients without charge. Historical data provided by the Exchange can be used for a variety of purposes. For instance, data recipients that wish to back-test certain trading strategies can use historical data for such purpose.

(vii) Latency Monitoring

The BATS Latency Monitoring data product will initially be available for BATS Equities only. The Latency Monitoring data product will offer real-time latency information based on equity orders entered into the System to data recipients on an uncompressed feed. This data feed will provide various statistics to data recipients based on the latency from when an order enters the BATS network until the time that the order appears on a particular BATS data feed. The Exchange will initially present various statistics aggregated across the exchange and also separated by matching engine unit including minimum latency, maximum latency, average latency, standard deviation, and the number of samples observed. The Exchange may add additional aggregate statistics in the future. In addition, the Exchange may also add other latency measures to the data feed in the future, to the extent a different method becomes relevant. The latency data will not be member or port specific. This data feed does not include any quotation or execution information.

2. Statutory Basis

Approval of 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>11</sup> In particular, the proposed change is consistent with Section 6(b)(5) of the Act,<sup>12</sup> 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. Specifically, the Exchange believes that this proposal is in keeping with those principles by promoting increased transparency through the dissemination of BATS equity and options market data along with information regarding the Exchange's internal latencies.

(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,

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<sup>11</sup> 15 U.S.C. 78f(b).

<sup>12</sup> 15 U.S.C. 78f(b)(5).

or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>13</sup> and Rule 19b-4(f)(6)(iii) thereunder.<sup>14</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.

#### 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-2011-017 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-2011-017. 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

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<sup>13</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>14</sup> 17 CFR 240.19b-4(f)(6).

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 on official business days between the hours of 10:00 am and 3:00 pm. 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-2011-017 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>15</sup>

Cathy H. Ahn  
Deputy Secretary

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<sup>15</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 XI. TRADING RULES**

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Rule 11.22. Data Products

The Exchange offers the following data products free of charge, except as otherwise noted in the Exchange's fee schedule:

(a) TCP PITCH. TCP PITCH is an uncompressed data feed that provides depth of book quotations and execution information based on equity orders entered into the System.

(b) TCP FAST PITCH. TCP FAST PITCH is a compressed data feed that provides depth of book quotations and execution information based on equity orders entered into the System. TCP FAST PITCH will be discontinued effective July 1, 2011.

(c) Multicast PITCH. Multicast PITCH is an uncompressed data feed that offers depth of book quotations and execution information based on equity orders entered into the System.

(d) TOP. TOP is an uncompressed data feed that offers top of book quotations and execution information based on equity orders entered into the System.

(e) DROP. DROP is an uncompressed data feed that offers information regarding the equities trading activity of a specific Member. DROP is only available to the Member to whom the specific data relates and those recipients expressly authorized by the Member.

(f) Latency Monitoring. Latency Monitoring is an uncompressed data feed that offers information regarding System latency based on equity orders entered into the System.

(g) Last Sale. Last Sale is an uncompressed data feed that offers only execution information based on equity orders entered into the System.

(h) Historical Data. Historical Data is a data product that offers historical equities data.

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**CHAPTER XXI. TRADING SYSTEMS**

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Rule 21.15. Data Products

The Exchange offers the following data products free of charge, except as otherwise noted in the Fee Schedule:

(a) Multicast PITCH. Multicast PITCH is an uncompressed data feed that offers depth of book quotations and execution information based on options orders entered into the System.

(b) DROP. DROP is an uncompressed data feed that offers information regarding the options trading activity of a specific Member. DROP is only available to the Member to whom the specific data relates and those recipients expressly authorized by the Member.

(c) Historical Data. Historical Data is a data product that offers historical options data.

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