

Required fields are shown with yellow backgrounds and asterisks.

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SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549
Form 19b-4

File No.* SR - 2011 - * 032

Amendment No. (req. for Amendments *)

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 checked="" type="checkbox"/>	Section 19(b)(3)(A) * <input type="checkbox"/>	Section 19(b)(3)(B) * <input type="checkbox"/>
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Rule

Pilot <input type="checkbox"/>	Extension of Time Period for Commission Action * <input type="checkbox"/>	Date Expires * <input type="text"/>
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<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 type="checkbox"/> 19b-4(f)(6)

Exhibit 2 Sent As Paper Document



Exhibit 3 Sent As Paper Document

**Description**

Provide a brief description of the proposed rule change (limit 250 characters, required when Initial is checked *).

Proposed rule change to adopt rules governing auctions conducted on the Exchange for securities listed on 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 *	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 08/19/2011

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)

Add Remove View

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)

Add Remove View

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

Add Remove View

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

Add Remove View

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

Add Remove View

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 adopt rules governing auctions conducted on the Exchange for securities listed on the Exchange.³

(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 the Board of Directors of the Exchange on August 10, 2011. 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

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ The Exchange has separately filed a proposal to adopt rules for the qualification, listing and delisting of companies on the Exchange. See Securities Exchange Act Release No. 34-64546 (May 25, 2011), 76 FR 31660 (June 1, 2011) (SR-BATS-2011-018).

The Exchange is proposing to adopt rules to govern auctions conducted on the Exchange for securities listed on the Exchange (“Exchange Auctions”).

Organization

The Exchange proposes adoption of definitions to govern Exchange Auctions in paragraph (a) of new Rule 11.23. Proposed paragraph (b) of Rule 11.23 sets forth the process for conducting an opening auction on the Exchange (“Opening Auction”) and determining an official opening price for dissemination to the consolidated tape (“BATS Official Opening Price”). Proposed paragraph (c) applies to the process for conducting a closing auction on the Exchange (“Closing Auction”) and determining an official closing price for dissemination to the consolidated tape (“BATS Official Closing Price”). Finally, proposed paragraph (d) describes the Exchange’s process for conducting an auction in the event of an initial public offering (“IPO”) or a halt of trading in the security (“IPO Auction” or “Halt Auction”, respectively). Each of the Opening Auction, Closing Auction, IPO Auction and Halt Auction operated by BATS will be a single-price Dutch auction to match buy and sell orders at the price at which the most shares would execute.

BATS Auction Feed

In addition to the adoption of Rule 11.23, described in greater detail below, the Exchange proposes to add new paragraph (i) to Rule 11.22 to describe a new data feed that will be offered by the Exchange in connection with auctions conducted by the

Exchange, the “BATS Auction Feed.” The BATS Auction Feed will be available to Exchange data recipients⁴ without charge.

The BATS Auction Feed will be available to all Exchange data recipients equally, and will offer all firms with uncompressed real-time data regarding the current status of price and size information related to auctions conducted by the Exchange. The Exchange will make the BATS Auction Feed available to all market participants via subscription through an established connection to the Exchange through extranets, direct connection, and Internet-based virtual private networks.

The BATS Auction Feed will contain the following data elements:

- *Time stamp.* The time of the message.
- *Reference Price.* The Reference Price will be the price within the Reference Price Range that maximizes the number of Eligible Auction Order (as defined below) shares associated with the lesser of the Reference Buy Shares and the Reference Sell Shares as determined at each price level within the Reference Price Range, that minimizes the absolute difference between Reference Buy Shares and Reference Sell Shares, and minimizes the distance from the Volume Based Tie Breaker (as defined below).
- *Reference Price Range.* The Reference Price Range will be the range from the best bid on the BATS Book (the “ZBB”) to the best offer on the BATS Book (the “ZBO”) for a particular security. In the event that there

⁴ 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.

is either no ZBB or ZBO for the security, the national best bid or offer (“NBBO”) will be used if there is at least one limit order on either the Continuous Book or the Auction Book. In the event that there is also either no national best bid (“NBB”) or national best offer (“NBO”) for the security or no limit orders on the Continuous Book and Auction Book, the price of the “Final Last Sale Eligible Trade” (as defined below) will be used.

- *Indicative Price.* The Indicative Price will be the price at which the most shares from the Auction Book⁵ and the Continuous Book⁶ would match.
- *Auction Only Price.* The Auction Only Price will be the price at which the most shares from the Auction Book would match. In the event of a volume based tie at multiple price levels, the Opening Auction price will be the price closest to the Volume Based Tie Breaker.
- *Reference Buy Shares.* Reference Buy Shares will be the total number of shares associated with buy-side Eligible Auction Orders that are priced equal to or greater than the Reference Price.
- *Reference Sell Shares.* Reference Sell Shares will be the total number of shares associated with sell-side Eligible Auction Orders that are priced equal to or less than the Reference Price.

⁵ The term “Auction Book” refers to the book of Eligible Auction Orders available on the BATS Book.

⁶ The term “Continuous Book” refers to all orders available on the Exchange that are not Eligible Auction Orders.

For purposes of the BATS Auction Feed, and the auction processes of the Exchange generally, the term “Final Last Sale Eligible Trade” shall mean the last trade occurring during Regular Trading Hours on the Exchange if the trade was executed within the last one second prior to either the Closing Auction or, for Halt Auctions, trading in the security being halted. Where the trade was not executed within the last one second, the last trade reported to the consolidated tape received by BATS during Regular Trading Hours and, where applicable, prior to trading in the security being halted will be used. If there is no qualifying trade for the current day, the BATS Official Closing Price (as defined below) from the previous trading day will be used.

By making the BATS Pricing Feed data available, the Exchange 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 BATS Auction Feed.⁷ Should the Exchange determine to charge fees associated with the BATS Auction Feed, the Exchange will submit a proposed rule change to the Commission in order to implement those fees.

Order Types to Participate in Auctions

⁷ The Exchange does not charge directly for the majority of the data feeds that it offers, nor will the Exchange charge for the BATS Auction Feed. The Exchange notes that 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).

The Exchange proposes to offer the following order types in connection with BATS Opening Auctions:

- A “Market-On-Open” or “MOO” order, which will be a BATS market order that is designated for execution only in the Opening Auction;
- A “Limit-On-Open” or “LOO” order, which will be a BATS limit order that is designated for execution only in the Opening Auction; and
- A “Late-Limit-On-Open” or “LLOO” order, which will be a BATS limit order that is designated for execution only in the Opening Auction. To the extent a LLOO bid or offer received by the Exchange has a limit price that is more aggressive than the ZBB or ZBO, the price of such bid or offer is adjusted to be equal to the ZBB or ZBO, respectively, at the time of receipt by the Exchange. Where the ZBB or ZBO becomes more aggressive, the limit price of the LLOO bid or offer will be adjusted to the more aggressive price, only to the extent that the more aggressive price is not more aggressive than the original User⁸ entered limit price. The limit price will never be adjusted to a less aggressive price. In the event that there is no best bid or offer on the Exchange (“ZBBO”), the NBBO will be used to constrain the limit price. If there is also no NBBO, the LLOO will assume its entered limit price.

⁸ A “User” is defined in BATS Rule 1.5(cc) as any member or sponsored participant of the Exchange who is authorized to obtain access to the System.

The Exchange proposes to offer the following order types in connection with BATS Closing Auctions, each of which mirrors an order type available for the Opening Auction:

- A “Market-On-Close” or “MOC” order, which will be a BATS market order that is designated for execution only in the Closing Auction;
- A “Limit-On-Close” or “LOC” order, which will be a BATS limit order that is designated for execution only in the Closing Auction;
- A “Late-Limit-On-Close” or “LLOC”, which will be a BATS limit order that is designated for execution only in the Closing Auction. To the extent a LLOC bid or offer received by the Exchange has a limit price that is more aggressive than the ZBB or ZBO, the price of such bid or offer is adjusted to be equal to the ZBB or ZBO, respectively, at the time of receipt by the Exchange. Where the ZBB or ZBO becomes more aggressive, the limit price of the LLOC bid or offer will be adjusted to the more aggressive price, only to the extent that the more aggressive price is not more aggressive than the original User entered limit price. The limit price will never be adjusted to a less aggressive price. In the event that there is no ZBBO, the NBBO will be used to constrain the limit price. If there is also no NBBO, the LLOC will assume its entered limit price.

In addition to the order types described above, the Exchange proposes to offer a “Regular Hours Only” or “RHO” order, which will be a BATS order that is designated

for execution only during Regular Trading Hours,⁹ which includes the Opening Auction, the Closing Auction, and IPO/Halt Auctions. A RHO order, if not executed in an applicable auction can be executed within a BATS Auction or on the Exchange's book outside of a BATS Auction but will not be subject to execution outside of Regular Trading Hours.

Opening Auction

Order Entry and Cancellation Before Opening Auction

As proposed, the Exchange will allow Users to submit orders to the Exchange starting at 8:00 a.m., the beginning of the Pre-Opening Session.¹⁰ Any Eligible Auction Orders (as defined below) designated for the Opening Auction will be queued until 9:30 a.m. at which time they will be eligible to be executed in the Opening Auction. An Eligible Auction Order, as proposed, would include any MOO, LOO, LLOO, MOC, LOC, or LLOC order that is entered in compliance with its respective cutoff for an Opening or Closing Auction, any RHO order prior to the Opening Auction, and any limit or market order not designated to exclusively participate in the Opening or Closing Auction entered during the Quote-Only Period of an IPO or Halt Auction.

Users will also be allowed to submit LOO and MOO orders until 9:28 a.m., at which point any additional LOO and MOO orders submitted to the Exchange will be rejected. RHO market orders will also be rejected between 9:28 a.m. and 9:30 a.m. Users may submit LLOO orders between 9:28 a.m. and 9:30 a.m. Any LLOO orders

⁹ As defined in Rule 1.5(w), "Regular Trading Hours" is the time between 9:30 a.m. and 4:00 p.m. Eastern Time.

¹⁰ As defined in Rule 1.5(r), the "Pre-Opening Session" is the time between 8:00 a.m. and 9:30 a.m. Eastern Time.

submitted before 9:28 a.m. or after 9:30 a.m. will be rejected. RHO limit orders submitted between 9:28 a.m. and 9:30 a.m. will be treated as LLOO orders until the Opening Auction has concluded. Eligible Auction Orders designated for the Opening Auction may not be cancelled or modified between 9:28 a.m. and 9:30 a.m. Orders eligible for execution in the Pre-Opening Session may be cancelled or modified at any time prior to execution.

Opening Auction Process for BATS Listed Securities

The Exchange will conduct an Opening Auction for all BATS listed securities. Beginning at 9:28 a.m. and updated every five seconds thereafter, the Reference Price, Indicative Price, Auction Only Price, Reference Buy Shares, and Reference Sell Shares associated with the Opening Auction will be disseminated via electronic means.

Auctions operated by the Exchange will utilize both a Collar Price Range and a Volume Based Tie Breaker in certain situations. The Collar Price Range will be the range from 10% of the Volume Based Tie Breaker below the ZBB to 10% of the Volume Based Tie Breaker above the ZBO. In the event that there is either no ZBB or ZBO for the security, the Collar Price Range will be the range from 10% of the Volume Based Tie Breaker below the NBB to 10% of the Volume Based Tie Breaker above the NBO if there is at least one limit order on either the Continuous Book or the Auction Book. In the event that there is also either no NBB or NBO for the security or no limit orders on the Continuous Book and the Auction Book, the range from 10% above and below the price of the Final Last Sale Eligible Trade will be used. The term Volume Based Tie Breaker will mean the midpoint of the ZBBO for a particular security. In the event that there is either no ZBB or ZBO for the security, the NBBO will be used if there is at least

one limit order on either the Continuous Book or the Auction Book. In the event that there is also either no NBB or NBO for the security or no limit orders on the Continuous Book and the Auction Book, the price of the Final Last Sale Eligible Trade will be used.

The Opening Auction price will be established by determining the price level within the Collar Price Range that maximizes the number of shares executed between the Continuous Book and Auction Book in the Opening Auction. In the event of a volume based tie at multiple price levels, the Opening Auction price will be the price closest to the Volume Based Tie Breaker. In the event that at the time of the Opening Auction there are no limit orders on both the Continuous Book and the Auction Book, the Opening Auction will occur at the price of the Final Last Sale Eligible Trade. The Opening Auction price will be the BATS Official Opening Price. In the event that there is no Opening Auction for an issue, the BATS Official Opening Price will be the price of the Final Last Sale Eligible Trade, which will be the previous BATS Official Closing Price.

MOO and market RHO orders have priority over all other Opening Auction Eligible Orders. To the extent there is executable contra side interest, such MOO and market RHO orders will execute at the BATS Official Opening Price in accordance with time priority. After the execution of all MOO and market RHO orders, the remaining orders priced at or more aggressively than the BATS Official Opening Price on the Auction Book and the Continuous Book will be executed on the basis of price priority. Equally priced trading interest shall execute in time priority in the following order: (i) the displayed portion of limit orders, LOO orders, LLOO orders, and limit RHO orders (all

such orders to have equal priority after execution of all MOO and market RHO orders); (ii) non-displayed orders; and (iii) the reserve portion of Limit Orders.

Transition to Regular Trading Hours

Limit order shares on the Continuous Book that are not executed in the Opening Auction will remain on the Continuous Book during Regular Trading Hours, subject to the User's instructions. RHO order shares that are not executed in the Opening Auction will be added to the Continuous Book at the conclusion of the Opening Auction, subject to the User's instructions. LOO, LLOO, and MOO orders that are not executed in the Opening Auction will be cancelled immediately at the conclusion of the Opening Auction.

Closing Auction

Order Entry and Cancellation Before Closing Auction

As proposed, Users may submit orders to the Exchange starting at 8:00 a.m., the beginning of the Pre-Opening Session. Any Eligible Auction Orders designated for the Closing Auction will be queued until 4:00 p.m. at which time they will be eligible to be executed in the Closing Auction. Users may submit LOC and MOC orders until 3:55 p.m., at which point any additional LOC and MOC orders submitted will be rejected. Unlike in the Opening Auction, User submitted Market RHO orders will be accepted immediately prior to the Closing Auction. Users may submit LLOC orders between 3:55 p.m. and 4:00 p.m. Any LLOC orders submitted before 3:55 p.m. or after 4:00 p.m. will be rejected.

Eligible Auction Orders designated for the Closing Auction may not be cancelled between 3:55 p.m. and 4:00 p.m. Orders eligible for execution during Regular Trading Hours may be cancelled at any time prior to execution.

Closing Auction Process for BATS Listed Securities

The Exchange will conduct a Closing Auction for all BATS listed securities. Beginning at 3:55 p.m. and updated every five seconds thereafter, the Reference Price, Indicative Price, Auction Only Price, Reference Buy Shares, and Reference Sell Shares associated with the Closing Auction will be disseminated via electronic means. The Closing Auction price will be established by determining the price level within the Collar Price Range that maximizes the number of shares executed between the Continuous Book and Auction Book in the Closing Auction. In the event of a volume based tie at multiple price levels, the Closing Auction price will be the price closest to the Volume Based Tie Breaker. In the event that at the time of the Closing Auction there are no limit orders on both the Continuous Book and the Auction Book, the Closing Auction will occur at the price of the Final Last Sale Eligible Trade. The Closing Auction price will be the BATS Official Closing Price. In the event that there is no Closing Auction for an issue, the BATS Official Closing Price will be the price of the Final Last Sale Eligible Trade.

MOC orders have priority over all other Closing Auction Eligible Orders. To the extent there is executable contra side interest, such MOC orders will be executed at the BATS Official Closing Price according to time priority. After the execution of all MOC orders, the remaining orders priced at or more aggressively than the BATS Official Closing Price on the Auction Book and the Continuous Book will be executed on the basis of price priority. Equally priced trading interest shall execute in time priority in the following order: (i) the displayed portion of limit orders, LOC orders, LLOC orders, and limit RHO orders (all such orders to have equal priority after execution of all MOC orders); (ii) non-displayed orders; and (iii) the reserve portion of Limit Orders.

Transition to After Hours Trading Session

Limit Order shares on the Continuous Book that are not executed in the Closing Auction will remain on the Continuous Book during the After Hours Trading Session, subject to the User's instructions. RHO order shares not executed in the Closing Auction will be cancelled at the conclusion of the Closing Auction. LOC, LLOC, and MOC orders that are not executed in the Closing Auction will be cancelled immediately at the conclusion of the Closing Auction.

IPO and Halt Auctions

For trading in a BATS listed security in an IPO or following a trading halt in that security, the Exchange will conduct an IPO or Halt Auction, as described below.

Order Entry and Cancellation Before an IPO or Halt Auction

The Quote-Only Period is a period of time prior to an IPO or Halt Auction during which the Exchange will permit Users to submit orders but the Exchange will not execute any transactions in the applicable security (*i.e.*, there are no Continuous Book executions occurring while orders are collected). The Quote-Only Period with respect to a Halt Auction shall commence five (5) minutes prior to such Halt Auction. The Quote-Only Period with respect to an IPO Auction shall commence fifteen (15) minutes plus a short random period prior to such IPO Auction. The Exchange has proposed a short random period of time prior to an IPO Auction to provide a protective mechanism against potential manipulation of the IPO price through orders entered for participation in the IPO Auction but then withdrawn immediately prior to the commencement of the auction process. There are no IPO or Halt Auction specific order types. Any Eligible Auction Orders associated with an IPO or Halt Auction will be queued until the end of the Quote-Only Period at which time they will be eligible to be executed in the associated auction.

All orders associated with IPO or Halt Auctions must be received prior to the end of the Quote-Only Period in order to participate in the auction.

Eligible Auction Orders associated with an IPO or Halt Auction may be cancelled at any time prior to execution.

IPO and Halt Auction Process

Coinciding with the beginning of the quotation only period for a security and updated every five seconds thereafter, the Reference Price, Indicative Price, Auction Only Price, Reference Buy Shares, and Reference Sell Shares associated with the Halt Auction will be disseminated via electronic means.

The Quote-Only Period may be extended where: (i) there are unmatched market orders on the Auction Book associated with the auction; (ii) in an IPO Auction, the underwriter requests an extension; or (iii) where the Indicative Price moves the greater of 10% or fifty (50) cents in the fifteen (15) seconds prior to the auction. The Exchange will typically extend the Quote-Only Period in five minute intervals, however, reserves the right to vary this interval and/or continue to extend the Quote-Only Period depending on the nature and magnitude of the reason for the extension.

Orders will be executed at the price that maximizes the number of shares executed in the auction. In the event of a volume based tie at multiple price levels, the price level closest to the issuing price will be used for IPO Auctions and the price level closest to the Final Last Sale Eligible Trade will be used for Halt Auctions. In the event that there are no limit orders among the Eligible Auction Orders for a Halt Auction, the Halt Auction will occur at the price of the Final Last Sale Eligible Trade. In the event that there are no limit orders among the Eligible Auction Orders for an IPO Auction, the IPO Auction will

occur at the issuing price. The IPO Auction price will be BATS Official IPO Opening Price.

If any orders are not executed in their entirety during the IPO or Halt Auction, then the remaining shares from such orders shall be executed in accordance with BATS Rule 11.13 after the completion of the Halt Auction. After the completion of the IPO or Halt Auction, the Exchange will open for trading in the security in accordance with Chapter 11 of BATS Rules.

Whenever, in the judgment of the Exchange, the interests of a fair and orderly market so require, the Exchange may adjust the timing of or suspend the auctions set forth in this Rule with prior notice to Members. For purposes of Rule 611(b)(3) of Regulation NMS, orders executed pursuant to the Opening Auction, Closing Auction, and Halt Auction may trade-through any other Trading Center's Manual or Protected Quotations if the transaction that constituted the trade-through was a single-priced opening, reopening, or closing transaction by the trading center.

The Exchange also proposes language for Rule 11.23 to make clear that all references including a.m. and p.m. times shall refer to times in Eastern Time.

(b) Statutory Basis

Approval of the rule changes 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.¹¹ In particular, the proposed change is consistent with Section 6(b)(5) of the

¹¹ 15 U.S.C. 78f(b).

Act,¹² 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. The Exchange believes that operation of an Exchange Auction for securities listed on the Exchange will assist in the price discovery process and help to ensure a fair and orderly market for securities listed on the Exchange.

For the reasons described above, the Exchange's proposal is also integral to its adoption of rules applicable to the qualification, listing and delisting of companies on the Exchange.¹³ The Exchange's proposal to operate as a primary listings market, including the adoption of rules to conduct Exchange Auctions, comes at a time when there are two dominant primary listing venues, the New York Stock Exchange LLC ("NYSE") and the NASDAQ Stock Market LLC ("Nasdaq"). The Exchange believes that the proposed change would increase competition by providing an alternative to Nasdaq and NYSE for a company seeking to list its securities and for such securities to be traded in an orderly fashion at the open and close of trading, as well as in the context of an IPO or halted trading in the security. Accordingly, the Exchange believes that the proposal will allow the Exchange to provide companies with another option for raising capital in the public markets, thereby promoting the aforementioned principles discussed in Section 6(b)(5) of the Act.¹⁴ For the reasons described above, the proposed rule change is also designed to

¹² 15 U.S.C. 78f(b)(5).

¹³ See supra note 3.

¹⁴ 15 U.S.C. 78f(b)(5).

support the principles of Section 11A(a)(1)¹⁵ of the Act in that it seeks to assure fair competition among brokers and dealers and among exchange markets.

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.

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

Not applicable.

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.

¹⁵ 15 U.S.C. 78k-1(a)(1).

EXHIBIT 1

SECURITIES AND EXCHANGE COMMISSION

(Release No. 34-_____ ; File No. SR-BATS-2011-032)

Self-Regulatory Organizations; BATS Exchange, Inc.; Notice of Filing of Proposed Rule Change by BATS Exchange, Inc. to Adopt Rules Applicable to Auctions Conducted by the Exchange for Exchange-Listed Securities.

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 19, 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, II and III below, which Items have been prepared by the Exchange. 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 proposes to adopt rules governing auctions conducted on the Exchange for securities listed on the Exchange.³

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.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ The Exchange has separately filed a proposal to adopt rules for the qualification, listing and delisting of companies on the Exchange. See Securities Exchange Act Release No. 34-64546 (May 25, 2011), 76 FR 31660 (June 1, 2011) (SR-BATS-2011-018).

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 is proposing to adopt rules to govern auctions conducted on the Exchange for securities listed on the Exchange ("Exchange Auctions").

Organization

The Exchange proposes adoption of definitions to govern Exchange Auctions in paragraph (a) of new Rule 11.23. Proposed paragraph (b) of Rule 11.23 sets forth the process for conducting an opening auction on the Exchange ("Opening Auction") and determining an official opening price for dissemination to the consolidated tape ("BATS Official Opening Price"). Proposed paragraph (c) applies to the process for conducting a closing auction on the Exchange ("Closing Auction") and determining an official closing price for dissemination to the consolidated tape ("BATS Official Closing Price"). Finally, proposed paragraph (d) describes the Exchange's process for conducting an auction in the event of an initial public offering ("IPO") or a halt of trading in the security ("IPO Auction" or "Halt Auction", respectively). Each of the Opening Auction, Closing Auction, IPO Auction and Halt Auction operated by BATS will be a single-price Dutch auction to match buy and sell orders at the price at which the most shares would execute.

BATS Auction Feed

In addition to the adoption of Rule 11.23, described in greater detail below, the Exchange proposes to add new paragraph (i) to Rule 11.22 to describe a new data feed that will be offered by the Exchange in connection with auctions conducted by the Exchange, the “BATS Auction Feed.” The BATS Auction Feed will be available to Exchange data recipients⁴ without charge.

The BATS Auction Feed will be available to all Exchange data recipients equally, and will offer all firms with uncompressed real-time data regarding the current status of price and size information related to auctions conducted by the Exchange. The Exchange will make the BATS Auction Feed available to all market participants via subscription through an established connection to the Exchange through extranets, direct connection, and Internet-based virtual private networks.

The BATS Auction Feed will contain the following data elements:

- *Time stamp.* The time of the message.
- *Reference Price.* The Reference Price will be the price within the Reference Price Range that maximizes the number of Eligible Auction Order (as defined below) shares associated with the lesser of the Reference Buy Shares and the Reference Sell Shares as determined at each price level within the Reference Price Range, that minimizes the absolute difference between Reference Buy Shares and Reference Sell Shares, and

⁴ 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.

minimizes the distance from the Volume Based Tie Breaker (as defined below).

- *Reference Price Range.* The Reference Price Range will be the range from the best bid on the BATS Book (the “ZBB”) to the best offer on the BATS Book (the “ZBO”) for a particular security. In the event that there is either no ZBB or ZBO for the security, the national best bid or offer (“NBBO”) will be used if there is at least one limit order on either the Continuous Book or the Auction Book. In the event that there is also either no national best bid (“NBB”) or national best offer (“NBO”) for the security or no limit orders on the Continuous Book and Auction Book, the price of the “Final Last Sale Eligible Trade” (as defined below) will be used.
- *Indicative Price.* The Indicative Price will be the price at which the most shares from the Auction Book⁵ and the Continuous Book⁶ would match.
- *Auction Only Price.* The Auction Only Price will be the price at which the most shares from the Auction Book would match. In the event of a volume based tie at multiple price levels, the Opening Auction price will be the price closest to the Volume Based Tie Breaker.

⁵ The term “Auction Book” refers to the book of Eligible Auction Orders available on the BATS Book.

⁶ The term “Continuous Book” refers to all orders available on the Exchange that are not Eligible Auction Orders.

- *Reference Buy Shares.* Reference Buy Shares will be the total number of shares associated with buy-side Eligible Auction Orders that are priced equal to or greater than the Reference Price.
- *Reference Sell Shares.* Reference Sell Shares will be the total number of shares associated with sell-side Eligible Auction Orders that are priced equal to or less than the Reference Price.

For purposes of the BATS Auction Feed, and the auction processes of the Exchange generally, the term “Final Last Sale Eligible Trade” shall mean the last trade occurring during Regular Trading Hours on the Exchange if the trade was executed within the last one second prior to either the Closing Auction or, for Halt Auctions, trading in the security being halted. Where the trade was not executed within the last one second, the last trade reported to the consolidated tape received by BATS during Regular Trading Hours and, where applicable, prior to trading in the security being halted will be used. If there is no qualifying trade for the current day, the BATS Official Closing Price (as defined below) from the previous trading day will be used.

By making the BATS Pricing Feed data available, the Exchange 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 BATS Auction Feed.⁷ Should the Exchange determine to charge fees associated with the BATS

⁷ The Exchange does not charge directly for the majority of the data feeds that it offers, nor will the Exchange charge for the BATS Auction Feed. The Exchange notes that 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

Auction Feed, the Exchange will submit a proposed rule change to the Commission in order to implement those fees.

Order Types to Participate in Auctions

The Exchange proposes to offer the following order types in connection with BATS Opening Auctions:

- A “Market-On-Open” or “MOO” order, which will be a BATS market order that is designated for execution only in the Opening Auction;
- A “Limit-On-Open” or “LOO” order, which will be a BATS limit order that is designated for execution only in the Opening Auction; and
- A “Late-Limit-On-Open” or “LLOO” order, which will be a BATS limit order that is designated for execution only in the Opening Auction. To the extent a LLOO bid or offer received by the Exchange has a limit price that is more aggressive than the ZBB or ZBO, the price of such bid or offer is adjusted to be equal to the ZBB or ZBO, respectively, at the time of receipt by the Exchange. Where the ZBB or ZBO becomes more aggressive, the limit price of the LLOO bid or offer will be adjusted to the more aggressive price, only to the extent that the more aggressive price is

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).

not more aggressive than the original User⁸ entered limit price. The limit price will never be adjusted to a less aggressive price. In the event that there is no best bid or offer on the Exchange (“ZBBO”), the NBBO will be used to constrain the limit price. If there is also no NBBO, the LLOO will assume its entered limit price.

The Exchange proposes to offer the following order types in connection with BATS Closing Auctions, each of which mirrors an order type available for the Opening Auction:

- A “Market-On-Close” or “MOC” order, which will be a BATS market order that is designated for execution only in the Closing Auction;
- A “Limit-On-Close” or “LOC” order, which will be a BATS limit order that is designated for execution only in the Closing Auction;
- A “Late-Limit-On-Close” or “LLOC”, which will be a BATS limit order that is designated for execution only in the Closing Auction. To the extent a LLOC bid or offer received by the Exchange has a limit price that is more aggressive than the ZBB or ZBO, the price of such bid or offer is adjusted to be equal to the ZBB or ZBO, respectively, at the time of receipt by the Exchange. Where the ZBB or ZBO becomes more aggressive, the limit price of the LLOC bid or offer will be adjusted to the more aggressive price, only to the extent that the more aggressive price is not more aggressive than the original User entered limit price. The limit

⁸ A “User” is defined in BATS Rule 1.5(cc) as any member or sponsored participant of the Exchange who is authorized to obtain access to the System.

price will never be adjusted to a less aggressive price. In the event that there is no ZBBO, the NBBO will be used to constrain the limit price. If there is also no NBBO, the LLOC will assume its entered limit price.

In addition to the order types described above, the Exchange proposes to offer a “Regular Hours Only” or “RHO” order, which will be a BATS order that is designated for execution only during Regular Trading Hours,⁹ which includes the Opening Auction, the Closing Auction, and IPO/Halt Auctions. A RHO order, if not executed in an applicable auction can be executed within a BATS Auction or on the Exchange’s book outside of a BATS Auction but will not be subject to execution outside of Regular Trading Hours.

Opening Auction

Order Entry and Cancellation Before Opening Auction

As proposed, the Exchange will allow Users to submit orders to the Exchange starting at 8:00 a.m., the beginning of the Pre-Opening Session.¹⁰ Any Eligible Auction Orders (as defined below) designated for the Opening Auction will be queued until 9:30 a.m. at which time they will be eligible to be executed in the Opening Auction. An Eligible Auction Order, as proposed, would include any MOO, LOO, LLOO, MOC, LOC, or LLOC order that is entered in compliance with its respective cutoff for an Opening or Closing Auction, any RHO order prior to the Opening Auction, and any limit

⁹ As defined in Rule 1.5(w), “Regular Trading Hours” is the time between 9:30 a.m. and 4:00 p.m. Eastern Time.

¹⁰ As defined in Rule 1.5(r), the “Pre-Opening Session” is the time between 8:00 a.m. and 9:30 a.m. Eastern Time.

or market order not designated to exclusively participate in the Opening or Closing Auction entered during the Quote-Only Period of an IPO or Halt Auction.

Users will also be allowed to submit LOO and MOO orders until 9:28 a.m., at which point any additional LOO and MOO orders submitted to the Exchange will be rejected. RHO market orders will also be rejected between 9:28 a.m. and 9:30 a.m. Users may submit LLOO orders between 9:28 a.m. and 9:30 a.m. Any LLOO orders submitted before 9:28 a.m. or after 9:30 a.m. will be rejected. RHO limit orders submitted between 9:28 a.m. and 9:30 a.m. will be treated as LLOO orders until the Opening Auction has concluded. Eligible Auction Orders designated for the Opening Auction may not be cancelled or modified between 9:28 a.m. and 9:30 a.m. Orders eligible for execution in the Pre-Opening Session may be cancelled or modified at any time prior to execution.

Opening Auction Process for BATS Listed Securities

The Exchange will conduct an Opening Auction for all BATS listed securities. Beginning at 9:28 a.m. and updated every five seconds thereafter, the Reference Price, Indicative Price, Auction Only Price, Reference Buy Shares, and Reference Sell Shares associated with the Opening Auction will be disseminated via electronic means.

Auctions operated by the Exchange will utilize both a Collar Price Range and a Volume Based Tie Breaker in certain situations. The Collar Price Range will be the range from 10% of the Volume Based Tie Breaker below the ZBB to 10% of the Volume Based Tie Breaker above the ZBO. In the event that there is either no ZBB or ZBO for the security, the Collar Price Range will be the range from 10% of the Volume Based Tie Breaker below the NBB to 10% of the Volume Based Tie Breaker above the NBO if

there is at least one limit order on either the Continuous Book or the Auction Book. In the event that there is also either no NBB or NBO for the security or no limit orders on the Continuous Book and the Auction Book, the range from 10% above and below the price of the Final Last Sale Eligible Trade will be used. The term Volume Based Tie Breaker will mean the midpoint of the ZBBO for a particular security. In the event that there is either no ZBB or ZBO for the security, the NBBO will be used if there is at least one limit order on either the Continuous Book or the Auction Book. In the event that there is also either no NBB or NBO for the security or no limit orders on the Continuous Book and the Auction Book, the price of the Final Last Sale Eligible Trade will be used.

The Opening Auction price will be established by determining the price level within the Collar Price Range that maximizes the number of shares executed between the Continuous Book and Auction Book in the Opening Auction. In the event of a volume based tie at multiple price levels, the Opening Auction price will be the price closest to the Volume Based Tie Breaker. In the event that at the time of the Opening Auction there are no limit orders on both the Continuous Book and the Auction Book, the Opening Auction will occur at the price of the Final Last Sale Eligible Trade. The Opening Auction price will be the BATS Official Opening Price. In the event that there is no Opening Auction for an issue, the BATS Official Opening Price will be the price of the Final Last Sale Eligible Trade, which will be the previous BATS Official Closing Price.

MOO and market RHO orders have priority over all other Opening Auction Eligible Orders. To the extent there is executable contra side interest, such MOO and market RHO orders will execute at the BATS Official Opening Price in accordance with

time priority. After the execution of all MOO and market RHO orders, the remaining orders priced at or more aggressively than the BATS Official Opening Price on the Auction Book and the Continuous Book will be executed on the basis of price priority. Equally priced trading interest shall execute in time priority in the following order: (i) the displayed portion of limit orders, LOO orders, LLOO orders, and limit RHO orders (all such orders to have equal priority after execution of all MOO and market RHO orders); (ii) non-displayed orders; and (iii) the reserve portion of Limit Orders.

Transition to Regular Trading Hours

Limit order shares on the Continuous Book that are not executed in the Opening Auction will remain on the Continuous Book during Regular Trading Hours, subject to the User's instructions. RHO order shares that are not executed in the Opening Auction will be added to the Continuous Book at the conclusion of the Opening Auction, subject to the User's instructions. LOO, LLOO, and MOO orders that are not executed in the Opening Auction will be cancelled immediately at the conclusion of the Opening Auction.

Closing Auction

Order Entry and Cancellation Before Closing Auction

As proposed, Users may submit orders to the Exchange starting at 8:00 a.m., the beginning of the Pre-Opening Session. Any Eligible Auction Orders designated for the Closing Auction will be queued until 4:00 p.m. at which time they will be eligible to be executed in the Closing Auction. Users may submit LOC and MOC orders until 3:55 p.m., at which point any additional LOC and MOC orders submitted will be rejected. Unlike in the Opening Auction, User submitted Market RHO orders will be accepted immediately prior to the Closing Auction. Users may submit LLOC orders between 3:55

p.m. and 4:00 p.m. Any LLOC orders submitted before 3:55 p.m. or after 4:00 p.m. will be rejected.

Eligible Auction Orders designated for the Closing Auction may not be cancelled between 3:55 p.m. and 4:00 p.m. Orders eligible for execution during Regular Trading Hours may be cancelled at any time prior to execution.

Closing Auction Process for BATS Listed Securities

The Exchange will conduct a Closing Auction for all BATS listed securities. Beginning at 3:55 p.m. and updated every five seconds thereafter, the Reference Price, Indicative Price, Auction Only Price, Reference Buy Shares, and Reference Sell Shares associated with the Closing Auction will be disseminated via electronic means. The Closing Auction price will be established by determining the price level within the Collar Price Range that maximizes the number of shares executed between the Continuous Book and Auction Book in the Closing Auction. In the event of a volume based tie at multiple price levels, the Closing Auction price will be the price closest to the Volume Based Tie Breaker. In the event that at the time of the Closing Auction there are no limit orders on both the Continuous Book and the Auction Book, the Closing Auction will occur at the price of the Final Last Sale Eligible Trade. The Closing Auction price will be the BATS Official Closing Price. In the event that there is no Closing Auction for an issue, the BATS Official Closing Price will be the price of the Final Last Sale Eligible Trade.

MOC orders have priority over all other Closing Auction Eligible Orders. To the extent there is executable contra side interest, such MOC orders will be executed at the BATS Official Closing Price according to time priority. After the execution of all MOC orders, the remaining orders priced at or more aggressively than the BATS Official Closing Price on the Auction Book and the Continuous Book will be executed on the

basis of price priority. Equally priced trading interest shall execute in time priority in the following order: (i) the displayed portion of limit orders, LOC orders, LLOC orders, and limit RHO orders (all such orders to have equal priority after execution of all MOC orders); (ii) non-displayed orders; and (iii) the reserve portion of Limit Orders.

Transition to After Hours Trading Session

Limit Order shares on the Continuous Book that are not executed in the Closing Auction will remain on the Continuous Book during the After Hours Trading Session, subject to the User's instructions. RHO order shares not executed in the Closing Auction will be cancelled at the conclusion of the Closing Auction. LOC, LLOC, and MOC orders that are not executed in the Closing Auction will be cancelled immediately at the conclusion of the Closing Auction.

IPO and Halt Auctions

For trading in a BATS listed security in an IPO or following a trading halt in that security, the Exchange will conduct an IPO or Halt Auction, as described below.

Order Entry and Cancellation Before an IPO or Halt Auction

The Quote-Only Period is a period of time prior to an IPO or Halt Auction during which the Exchange will permit Users to submit orders but the Exchange will not execute any transactions in the applicable security (*i.e.*, there are no Continuous Book executions occurring while orders are collected). The Quote-Only Period with respect to a Halt Auction shall commence five (5) minutes prior to such Halt Auction. The Quote-Only Period with respect to an IPO Auction shall commence fifteen (15) minutes plus a short random period prior to such IPO Auction. The Exchange has proposed a short random period of time prior to an IPO Auction to provide a protective mechanism against potential manipulation of the IPO price through orders entered for participation in the

IPO Auction but then withdrawn immediately prior to the commencement of the auction process. There are no IPO or Halt Auction specific order types. Any Eligible Auction Orders associated with an IPO or Halt Auction will be queued until the end of the Quote-Only Period at which time they will be eligible to be executed in the associated auction. All orders associated with IPO or Halt Auctions must be received prior to the end of the Quote-Only Period in order to participate in the auction.

Eligible Auction Orders associated with an IPO or Halt Auction may be cancelled at any time prior to execution.

IPO and Halt Auction Process

Coinciding with the beginning of the quotation only period for a security and updated every five seconds thereafter, the Reference Price, Indicative Price, Auction Only Price, Reference Buy Shares, and Reference Sell Shares associated with the Halt Auction will be disseminated via electronic means.

The Quote-Only Period may be extended where: (i) there are unmatched market orders on the Auction Book associated with the auction; (ii) in an IPO Auction, the underwriter requests an extension; or (iii) where the Indicative Price moves the greater of 10% or fifty (50) cents in the fifteen (15) seconds prior to the auction. The Exchange will typically extend the Quote-Only Period in five minute intervals, however, reserves the right to vary this interval and/or continue to extend the Quote-Only Period depending on the nature and magnitude of the reason for the extension.

Orders will be executed at the price that maximizes the number of shares executed in the auction. In the event of a volume based tie at multiple price levels, the price level closest to the issuing price will be used for IPO Auctions and the price level closest to the Final Last Sale Eligible Trade will be used for Halt Auctions. In the event that there are

no limit orders among the Eligible Auction Orders for a Halt Auction, the Halt Auction will occur at the price of the Final Last Sale Eligible Trade. In the event that there are no limit orders among the Eligible Auction Orders for an IPO Auction, the IPO Auction will occur at the issuing price. The IPO Auction price will be BATS Official IPO Opening Price.

If any orders are not executed in their entirety during the IPO or Halt Auction, then the remaining shares from such orders shall be executed in accordance with BATS Rule 11.13 after the completion of the Halt Auction. After the completion of the IPO or Halt Auction, the Exchange will open for trading in the security in accordance with Chapter 11 of BATS Rules.

Whenever, in the judgment of the Exchange, the interests of a fair and orderly market so require, the Exchange may adjust the timing of or suspend the auctions set forth in this Rule with prior notice to Members. For purposes of Rule 611(b)(3) of Regulation NMS, orders executed pursuant to the Opening Auction, Closing Auction, and Halt Auction may trade-through any other Trading Center's Manual or Protected Quotations if the transaction that constituted the trade-through was a single-priced opening, reopening, or closing transaction by the trading center.

The Exchange also proposes language for Rule 11.23 to make clear that all references including a.m. and p.m. times shall refer to times in Eastern Time.

2. Statutory Basis

Approval of the rule changes 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.¹¹ In particular, the proposed change is consistent with Section 6(b)(5) of the Act,¹² 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. The Exchange believes that operation of an Exchange Auction for securities listed on the Exchange will assist in the price discovery process and help to ensure a fair and orderly market for securities listed on the Exchange.

For the reasons described above, the Exchange's proposal is also integral to its adoption of rules applicable to the qualification, listing and delisting of companies on the Exchange.¹³ The Exchange's proposal to operate as a primary listings market, including the adoption of rules to conduct Exchange Auctions, comes at a time when there are two dominant primary listing venues, the New York Stock Exchange LLC ("NYSE") and the NASDAQ Stock Market LLC ("Nasdaq"). The Exchange believes that the proposed change would increase competition by providing an alternative to Nasdaq and NYSE for a company seeking to list its securities and for such securities to be traded in an orderly fashion at the open and close of trading, as well as in the context of an IPO or halted trading in the security. Accordingly, the Exchange believes that the proposal will allow the Exchange to provide companies with another option for raising capital in the public markets, thereby promoting the aforementioned principles discussed in Section 6(b)(5) of

¹¹ 15 U.S.C. 78f(b).

¹² 15 U.S.C. 78f(b)(5).

¹³ See supra note 3.

the Act.¹⁴ For the reasons described above, the proposed rule change is also designed to support the principles of Section 11A(a)(1)¹⁵ of the Act in that it seeks to assure fair competition among brokers and dealers and among exchange markets.

(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 Changes and Timing for Commission Action

Within 35 days of the date of publication of this notice in the Federal Register or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission will: (a) by order approve such proposed rule change, or (b) institute proceedings to determine whether the proposed rule change should be disapproved.

¹⁴ 15 U.S.C. 78f(b)(5).

¹⁵ 15 U.S.C. 78k-1(a)(1).

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-2011-032 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-2011-032. 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, 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-2011-032 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.¹⁶

Cathy H. Ahn
Deputy Secretary

¹⁶ 17 CFR 200.30-3(a)(12).

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

Rules of BATS Exchange, Inc.

CHAPTER XI. TRADING RULES

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)-(h) (No changes).

(i) BATS Auction Feed. The BATS Auction Feed is an uncompressed data product that provides information regarding the current status of price and size information related to auctions conducted by the Exchange.

Rule 11.23. Auctions

(a) Definitions

(1) The term "Auction Book" shall mean all Eligible Auction Orders on the BATS Book.

(2) The term "Auction Only Price" shall mean the price at which the most shares from the Auction Book would match. In the event of a volume based tie at multiple price levels, the Auction Only Price will be the price closest to the Volume Based Tie Breaker.

(3) The term "BATS Official Closing Price" shall mean the price disseminated to the consolidated tape as the market center closing trade.

(4) The term "BATS Official IPO Opening Price" shall mean the price disseminated to the consolidated tape as the market center opening trade for an initial public offering of a BATS listed security.

(5) The term "BATS Official Opening Price" shall mean the price disseminated to the consolidated tape as the market center opening trade.

(6) The term "Collar Price Range" shall mean the range from 10% of the Volume Based Tie Breaker below the ZBB to 10% of the Volume Based Tie Breaker above the ZBO. In the event that there is either no ZBB or ZBO for the security, the Collar Price Range shall be the range from 10% of the Volume Based Tie Breaker below the NBB to 10% of the Volume Based Tie Breaker above the NBO if there is at least one

limit order on either the Continuous Book or the Auction Book. In the event that there is also either no NBB or NBO for the security or no limit orders on the Continuous Book and the Auction Book, the range from 10% above and below the price of the Final Last Sale Eligible Trade will be used.

(7) The term “Continuous Book” shall mean all orders on the BATS Book that are not Eligible Auction Orders.

(8) The term “Eligible Auction Order” shall mean any MOO, LOO, LLOO, MOC, LOC, or LLOC order that is entered in compliance with its respective cutoff for an Opening or Closing Auction, any RHO order prior to the Opening Auction, and any limit or market order not designated to exclusively participate in the Opening or Closing Auction entered during the Quote-Only Period of an IPO or Halt Auction.

(9) The term “Final Last Sale Eligible Trade” shall mean the last trade occurring during Regular Trading Hours on the Exchange if the trade was executed within the last one second prior to either the Closing Auction or, for Halt Auctions, trading in the security being halted. Where the trade was not executed within the last one second, the last trade reported to the consolidated tape received by BATS during Regular Trading Hours and, where applicable, prior to trading in the security being halted will be used. If there is no qualifying trade for the current day, the BATS Official Closing Price from the previous trading day will be used.

(10) The term “Indicative Price” shall mean the price at which the most shares from the Auction Book and the Continuous Book would match.

(11) The term “Late-Limit-On-Close” or “LLOC” shall mean a BATS limit order that is designated for execution only in the Closing Auction. To the extent a LLOC bid or offer received by the Exchange has a limit price that is more aggressive than the ZBB or ZBO, the price of such bid or offer is adjusted to be equal to the ZBB or ZBO, respectively, at the time of receipt by the Exchange. Where the ZBB or ZBO becomes more aggressive, the limit price of the LLOC bid or offer will be adjusted to the more aggressive price, only to the extent that the more aggressive price is not more aggressive than the original User entered limit price. The limit price will never be adjusted to a less aggressive price. In the event that there is no ZBBO, the NBBO will be used to constrain the limit price. If there is also no NBBO, the LLOC will assume its entered limit price.

(12) The term “Late-Limit-On-Open” or “LLOO” shall mean a BATS limit order that is designated for execution only in the Opening Auction. To the extent a LLOO bid or offer received by the Exchange has a limit price that is more aggressive than the ZBB or ZBO, the price of such bid or offer is adjusted to be equal to the ZBB or ZBO, respectively, at the time of receipt by the Exchange. Where the ZBB or ZBO becomes more aggressive, the limit price of the LLOO bid or offer will be adjusted to the more aggressive price, only to the extent that the more aggressive price is not more aggressive than the original User entered limit price. The limit price will never be adjusted to a less aggressive price. In the event that there is no ZBBO, the NBBO will be

used to constrain the limit price. If there is also no NBBO, the LLOO will assume its entered limit price.

(13) The term “Limit-On-Close” or “LOC” shall mean a BATS limit order that is designated for execution only in the Closing Auction.

(14) The term “Limit-On-Open” or “LOO” shall mean a BATS limit order that is designated for execution only in the Opening Auction.

(15) The term “Market-On-Close” or “MOC” shall mean a BATS market order that is designated for execution only in the Closing Auction.

(16) The term “Market-On-Open” or “MOO” shall mean a BATS market order that is designated for execution only in the Opening Auction.

(17) The term “Quote-Only Period” shall mean a designated period of time prior to a Halt Auction or an IPO Auction during which Users may submit orders to the Exchange for participation in the auction.

(18) The term “Reference Buy Shares” shall mean the total number of shares associated with buy-side Eligible Auction Orders that are priced equal to or greater than the Reference Price.

(19) The term “Reference Price” shall mean the price within the Reference Price Range that maximizes the number of Eligible Auction Order shares associated with the lesser of the Reference Buy Shares and the Reference Sell Shares as determined at each price level within the Reference Price Range, that minimizes the absolute difference between Reference Buy Shares and Reference Sell Shares, and minimizes the distance from the Volume Based Tie Breaker.

(20) The term “Reference Price Range” shall mean the range from the ZBB to the ZBO for a particular security. In the event that there is either no ZBB or ZBO for the security, the NBBO will be used if there is at least one limit order on either the Continuous Book or the Auction Book. In the event that there is also either no NBB or NBO for the security or no limit orders on the Continuous Book and the Auction Book, the price of the Final Last Sale Eligible Trade will be used.

(21) The term “Reference Sell Shares” shall mean the total number of shares associated with sell-side Eligible Auction Orders that are priced equal to or less than the Reference Price.

(22) The term “Regular Hours Only” or “RHO” shall mean a BATS order that is designated for execution only during Regular Trading Hours, which includes the Opening Auction, the Closing Auction, and IPO/Halt Auctions.

(23) The term “Volume Based Tie Breaker” shall mean the midpoint of the ZBBO for a particular security. In the event that there is either no ZBB or ZBO for the security, the NBBO will be used if there is at least one limit order on either the

Continuous Book or the Auction Book. In the event that there is also either no NBB or NBO for the security or no limit orders on the Continuous Book and the Auction Book, the price of the Final Last Sale Eligible Trade will be used.(24) The term “ZBB” or “BATS Best Bid” shall mean the highest displayed price in the Continuous Book. The term “ZBO” or “BATS Best Offer” shall mean the lowest displayed price in the Continuous Book. The term “ZBBO” shall mean BATS Best Bid or BATS Best Offer.

(b) Opening Auction

(1) Order Entry and Cancellation Before Opening Auction

(A) Users may submit orders to the Exchange starting at 8:00 a.m., the beginning of the Pre-Opening Session. Any Eligible Auction Orders designated for the Opening Auction will be queued until 9:30 a.m. at which time they will be eligible to be executed in the Opening Auction. Users may submit LOO and MOO orders until 9:28 a.m., at which point any additional LOO and MOO orders submitted to the Exchange will be rejected. RHO market orders will also be rejected between 9:28 a.m. and 9:30 a.m. Users may submit LLOO orders between 9:28 a.m. and 9:30 a.m. Any LLOO orders submitted before 9:28 a.m. or after 9:30 a.m. will be rejected. RHO limit orders submitted between 9:28 a.m. and 9:30 a.m. will be treated as LLOO orders until the Opening Auction has concluded.

(B) Eligible Auction Orders designated for the Opening Auction may not be cancelled or modified between 9:28 a.m. and 9:30 a.m.

(C) Orders eligible for execution in the Pre-Opening Session may be cancelled or modified at any time prior to execution.

(2) Opening Auction Process. The Exchange will conduct an Opening Auction for all BATS listed securities.

(A) Publication of BATS Auction Information. Beginning at 9:28 a.m. and updated every five seconds thereafter, the Reference Price, Indicative Price, Auction Only Price, Reference Buy Shares, and Reference Sell Shares associated with the Opening Auction will be disseminated via electronic means.

(B) Determination of BATS Official Opening Price. The Opening Auction price will be established by determining the price level within the Collar Price Range that maximizes the number of shares executed between the Continuous Book and Auction Book in the Opening Auction. In the event of a volume based tie at multiple price levels, the Opening Auction price will be the price closest to the Volume Based Tie Breaker. In the event that at the time of the Opening Auction there are no limit orders on both the Continuous Book and the Auction Book, the Opening Auction will occur at the price of the Final Last Sale Eligible Trade. The Opening Auction price will be the BATS Official Opening Price. In the event that there is no Opening Auction for an issue, the BATS

Official Opening Price will be the price of the Final Last Sale Eligible Trade, which will be the previous BATS Official Closing Price.

(C) Execution Priority. MOO and market RHO orders have priority over all other Opening Auction Eligible Orders. To the extent there is executable contra side interest, such MOO and market RHO orders will execute at the BATS Official Opening Price in accordance with time priority. After the execution of all MOO and market RHO orders, the remaining orders priced at or more aggressively than the BATS Official Opening Price on the Auction Book and the Continuous Book will be executed on the basis of price priority. Equally priced trading interest shall execute in time priority in the following order:

(i) the displayed portion of limit orders, LOO orders, LLOO orders, and limit RHO orders (all such orders to have equal priority after execution of all orders identified in paragraph (C) above);

(ii) non-displayed orders; and

(iii) the reserve portion of limit orders.

(3) Transition to Regular Trading Hours

(A) Limit order shares on the Continuous Book that are not executed in the Opening Auction will remain on the Continuous Book during Regular Trading Hours, subject to the User's instructions.

(B) RHO order shares that are not executed in the Opening Auction will be added to the Continuous Book at the conclusion of the Opening Auction, subject to the User's instructions.

(C) LOO, LLOO, and MOO orders that are not executed in the Opening Auction will be cancelled immediately at the conclusion of the Opening Auction.

(c) Closing Auction

(1) Order Entry and Cancellation Before Closing Auction

(A) Users may submit orders to the Exchange starting at 8:00 a.m., the beginning of the Pre-Opening Session. Any Eligible Auction Orders designated for the Closing Auction will be queued until 4:00 p.m. at which time they will be eligible to be executed in the Closing Auction. Users may submit LOC and MOC orders until 3:55 p.m., at which point any additional LOC and MOC orders submitted will be rejected. Unlike in the Opening Auction, User submitted Market RHO orders will be accepted immediately prior to the Closing Auction. Users may submit LLOC orders between 3:55 p.m. and 4:00 p.m. Any LLOC orders submitted before 3:55 p.m. or after 4:00 p.m. will be rejected.

(B) Eligible Auction Orders designated for the Closing Auction may not be cancelled between 3:55 p.m. and 4:00 p.m.

(C) Orders eligible for execution during Regular Trading Hours may be cancelled at any time prior to execution.

(2) Closing Auction Process. The Exchange will conduct a Closing Auction for all BATS listed securities.

(A) Publication of BATS Auction Information. Beginning at 3:55 p.m. and updated every five seconds thereafter, the Reference Price, Indicative Price, Auction Only Price, Reference Buy Shares, and Reference Sell Shares associated with the Closing Auction will be disseminated via electronic means.

(B) Determination of BATS Official Closing Price. The Closing Auction price will be established by determining the price level within the Collar Price Range that maximizes the number of shares executed between the Continuous Book and Auction Book in the Closing Auction. In the event of a volume based tie at multiple price levels, the Closing Auction price will be the price closest to the Volume Based Tie Breaker. In the event that at the time of the Closing Auction there are no limit orders on both the Continuous Book and the Auction Book, the Closing Auction will occur at the price of the Final Last Sale Eligible Trade. The Closing Auction price will be the BATS Official Closing Price. In the event that there is no Closing Auction for an issue, the BATS Official Closing Price will be the price of the Final Last Sale Eligible Trade.

(C) Execution Priority. MOC orders have priority over all other Closing Auction Eligible Orders. To the extent there is executable contra side interest, such MOC orders will be executed at the BATS Official Closing Price according to time priority. After the execution of all MOC orders, the remaining orders priced at or more aggressively than the BATS Official Closing Price on the Auction Book and the Continuous Book will be executed on the basis of price priority. Equally priced trading interest shall execute in time priority in the following order:

(i) the displayed portion of limit orders, LOC orders, LLOC orders, and limit RHO orders (all such orders to have equal priority after execution of all orders identified in paragraph (C) above);

(ii) non-displayed orders; and

(iii) the reserve portion of limit orders.

(3) Transition to After Hours Trading Session

(A) Limit order shares on the Continuous Book that are not executed in the Closing Auction will remain on the Continuous Book during the After Hours Trading Session, subject to the User's instructions.

(B) RHO, LOC, LLOC, and MOC order shares that are not executed in the Closing Auction will be cancelled at the conclusion of the Closing Auction.

(d) IPO and Halt Auctions. For trading in a BATS listed security in an initial public offering (an "IPO") or following a trading halt in that security, the Exchange will conduct an IPO or Halt Auction, as described below.

(1) Order Entry and Cancellation Before an IPO or Halt Auction.

(A) The Quote-Only Period with respect to a Halt Auction shall commence five (5) minutes prior to such Halt Auction. The Quote-Only Period with respect to an IPO Auction shall commence fifteen (15) minutes plus a short random period prior to such IPO Auction. There are no IPO or Halt Auction specific order types. Any Eligible Auction Orders associated with an IPO or Halt Auction will be queued until the end of the Quote-Only Period at which time they will be eligible to be executed in the associated auction. All orders associated with IPO or Halt Auctions must be received prior to the end of the Quote-Only Period in order to participate in the auction.

(B) Eligible Auction Orders associated with an IPO or Halt Auction may be cancelled at any time prior to execution.

(2) IPO and Halt Auction Process.

(A) Publication of BATS Auction Information. Coinciding with the beginning of the quotation only period for a security and updated every five seconds thereafter, the Reference Price, Indicative Price, Auction Only Price, Reference Buy Shares, and Reference Sell Shares associated with the Halt Auction will be disseminated via electronic means.

(B) Extending the Quote-Only Period. The Quote-Only Period may be extended where:

(i) there are unmatched market orders on the Auction Book associated with the auction;

(ii) in an IPO Auction, the underwriter requests an extension;
or

(iii) where the Indicative Price moves the greater of 10% or fifty (50) cents in the fifteen (15) seconds prior to the auction.

(C) Determination of BATS IPO and Halt Auction Price. Orders will be executed at the price that maximizes the number of shares executed in the auction. In the event of a volume based tie at multiple price levels, the price level closest to the issuing price will be used for IPO Auctions and the price level closest to the Final Last Sale Eligible Trade will be used for Halt Auctions. In the event that there are no limit orders among the Eligible Auction Orders for a Halt

Auction, the Halt Auction will occur at the price of the Final Last Sale Eligible Trade. In the event that there are no limit orders among the Eligible Auction Orders for an IPO Auction, the IPO Auction will occur at the issuing price. The IPO Auction price will be BATS Official IPO Opening Price.

(3) Transition to Normal Trading.

(A) If any orders are not executed in their entirety during the IPO or Halt Auction, then the remaining shares from such orders shall be executed in accordance with BATS Rule 11.13 after the completion of the Halt Auction.

(B) After the completion of the IPO or Halt Auction, the Exchange will open for trading in the security in accordance with Chapter 11 of BATS Rules.

(g) Whenever, in the judgment of the Exchange, the interests of a fair and orderly market so require, the Exchange may adjust the timing of or suspend the auctions set forth in this Rule with prior notice to Users.

(h) For purposes of Rule 611(b)(3) of Regulation NMS, orders executed pursuant to the Opening Auction, Closing Auction, and Halt Auction may trade-through any other Trading Center's Manual or Protected Quotations if the transaction that constituted the trade-through was a single-priced opening, reopening, or closing transaction by the trading center.

(i) For purposes of this Rule, all references to a.m. and p.m. times shall refer to Eastern Time.