

Required fields are shown with yellow backgrounds and asterisks.

Page 1 of * 24	SECURITIES AND EXCHANGE COMMISSION WASHINGTON, D.C. 20549 Form 19b-4		File No.* SR - 2011 - * 046	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 type="checkbox"/>	Section 19(b)(3)(A) * <input checked="" type="checkbox"/>
			Section 19(b)(3)(B) * <input type="checkbox"/>	
			Rule	
Pilot <input type="checkbox"/>	Extension of Time Period for Commission Action * <input type="checkbox"/>	Date Expires * <input type="text"/>	<input type="checkbox"/> 19b-4(f)(1)	<input type="checkbox"/> 19b-4(f)(4)
			<input checked="" 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 <input type="checkbox"/>		Exhibit 3 Sent As Paper Document <input type="checkbox"/>		
Description Provide a brief description of the proposed rule change (limit 250 characters, required when Initial is checked *). Amendment to the fee schedule of BATS Exchange, Inc.				
Contact Information Provide the name, telephone number and e-mail address of the person on the staff of the self-regulatory organization prepared to respond to questions and comments on the proposed rule change. First Name * Anders Last Name * Franzon Title * VP, Associate General Counsel E-mail * afranzon@batstrading.com Telephone * (913) 815-7154 Fax (913) 815-7119				
Signature Pursuant to the requirements of the Securities Exchange Act of 1934, has duly caused this filing to be signed on its behalf by the undersigned thereunto duly authorized officer. Date 10/31/2011 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)

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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

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

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If the self-regulatory organization is amending only part of the text of a lengthy proposed rule change, it may, with the Commission's permission, file only those portions of the text of the proposed rule change in which changes are being made if the filing (i.e. partial amendment) is clearly understandable on its face. Such partial amendment shall be clearly identified and marked to show deletions and additions.

1. Text of the Proposed Rule Change

Pursuant to the provisions of Section 19(b)(1) of the Securities Exchange Act of 1934 (the “Act”),¹ and Rule 19b-4 thereunder,² BATS Exchange, Inc. (the “Exchange” or “BATS”) is filing with the Securities and Exchange Commission (“Commission”) a proposed rule change to amend the fee schedule applicable to Members³ and non-members of the Exchange pursuant to BATS Rules 15.1(a) and (c). While changes to the fee schedule pursuant to this proposal will be effective upon filing, the changes will become operative on November 1, 2011.

(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.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ A Member is any registered broker or dealer that has been admitted to membership in the Exchange.

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

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

(a) Purpose

The Exchange proposes to modify the "Options Pricing" section of its fee schedule to: (i) recognize a new category of participant, a "Professional", in light of recent changes the Exchange made to its rules that become operative November 1, 2011; and (ii) modify the Quoting Incentive Program, which is a program intended to incentivize sustained, aggressive quoting on the BATS options platform ("BATS Options"). In addition to these changes, the Exchange proposes to correct a typographical error on the fee schedule. Specifically, the Exchange no longer offers a discounted fee to remove liquidity for Firm or Market Makers that meet certain average daily volume requirements but the fee schedule still contains language indicating that such a reduced fee is available. The Exchange proposes to delete this language.

Professional Pricing

The Exchange recently modified the rules applicable to BATS Options to amend Rule 16.1 (Definitions) to adopt a definition of "Professional" on the Exchange and require that all Professional orders be appropriately marked by members of BATS Options ("Options Members").⁴ As defined in Rule 16.1, which, as modified becomes operative November 1, 2011, the term "Professional" means any person or entity that (i)

⁴ Securities Exchange Act Release No. 65500 (October 6, 2011), 76 FR 63686 (October 13, 2011) (SR-BATS-2011-041).

is not a broker or dealer in securities, and (ii) places more than 390 orders in listed options per day on average during a calendar month for its own beneficial account(s).

The Exchange currently charges and provides rebates based on the capacity in which a User is acting, either as a Firm, as a Market Maker, or on behalf of a Customer. With respect to rebates, the Exchange also currently differentiates the rebate paid to Firms and Market Makers depending on the capacity of the counter-party to the trade, either a Customer or another Firm or Market Maker. In order to properly align Professionals with other sophisticated market participants, the Exchange proposes to modify its fee schedule by listing a Professional with a Firm and Market Maker in every instance where a distinction is made for options fees and rebates based on the capacity of the User or the counter-party. For instance, the Exchange currently charges a fee of \$0.42 per contract for all Firm and Market Maker orders that remove liquidity from BATS Options. The Exchange proposes to charge this same fee for all Professional orders that remove liquidity from BATS Options.

Modification to Quoting Incentive Program (QIP)

BATS Options offers a Quoting Incentive Program (QIP), through which Members receive a rebate of \$0.05 per contract, in addition to any other applicable liquidity rebate, for executions subject to the QIP. Currently to qualify for the QIP a BATS Options Market Maker must be at the NBB or NBO 70% of the time for series trading between \$0.03 and \$5.00 for the front three (3) expiration months in that underlying during the current trading month. A Member not registered as a BATS Options Market Maker can also qualify for the QIP by quoting at the NBB or NBO 80% of the time in the same series. The Exchange proposes to modify the qualification levels

to make qualifying for the QIP attainable by more Members and BATS Options Market Makers. Specifically, the Exchange proposes to reduce the level at which a BATS Options Market Maker must be at the NBB or NBO from 70% to 60% and for Members not registered as a BATS Options Market Maker from 80% to 70%.

All other aspects of the QIP currently in place will remain the same. As is true under the current operation of the QIP, the Exchange will determine whether a Member qualifies for QIP rebates at the end of each month by looking back at each Member's (including BATS Options Market Makers) quoting statistics during that month. If at the end of the month a Market Maker meets the 60% criteria or a Member that is not registered as a Market Maker meets the 70% criteria, the Exchange will provide the additional rebate for all executions subject to the QIP executed by that Member during that month. The Exchange will provide Members with a report on a daily basis with quoting statistics so such Members can determine whether or not they are meeting the QIP criteria. The Exchange is not proposing to impose any ADV requirements in order to qualify for the QIP at this time.

(b) Statutory Basis

The Exchange believes that the proposed rule change 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 of the Act.⁵ Specifically, the Exchange believes that the proposed rule change is consistent with Section 6(b)(4) of the Act,⁶ in that it provides for the equitable allocation of

⁵ 15 U.S.C. 78f.

⁶ 15 U.S.C. 78f(b)(4).

reasonable dues, fees and other charges among members and other persons using any facility or system which the Exchange operates or controls. The Exchange notes that it operates in a highly competitive market in which market participants can readily direct order flow to competing venues if they deem fee levels at a particular venue to be excessive.

The Exchange believes it is equitable, reasonable and non-discriminatory to assess fees and provide liquidity rebates for Professional orders that are the same as those fees and rebates for Firms and Market Makers. The Exchange believes that application of a simple pricing structure that groups all sophisticated participants together is advantageous to all Members of BATS Options. As stated above, the Exchange operates within a highly competitive market. The Exchange, however, does not assess ongoing fees for BATS Options market data or fees related to order cancellation. Professional accounts, while otherwise considered to be Customers by virtue of not being broker-dealers, generally engage in trading activity more similar to broker-dealer proprietary trading accounts (more than 390 orders per day on average). This level of trading activity draws on a greater amount of Exchange system resources than that of non-Professional Customers. Simply, the more orders submitted to the Exchange, the more messages sent to and received from the Exchange, and the more Exchange system resources utilized. This level of trading activity by Professional accounts results in greater ongoing operational costs to the Exchange. As such, the Exchange aims to recover its costs by assessing Professional accounts the same fees that it assesses to other sophisticated Exchange market participants. Generally, competing options exchanges assess Professionals fees at rates more comparable to fees charged to broker-dealers. Sending

orders to and trading on the Exchange are entirely voluntary. Under these circumstances, Exchange transaction fees must be competitive to attract order flow, execute orders, and grow its market. As such, the Exchange believes its trading fees proposed for Professional accounts are fair and reasonable. While Professional orders will be assessed comparably higher transaction fees than those assessed to other Customer orders, as proposed, because Professional orders will be treated in the same manner as Firm and Market Maker orders, Professional orders will have the ability to achieve a higher rebate of \$0.32 per contract when executing against other Firm, Market Maker or Professional orders (as compared to a \$0.30 per contract rebate that a Customer order would receive).⁷ The Exchange also notes that Professional orders will still qualify for additional rebates under existing programs such as the Exchange's Quoting Incentive and NBBO Setter Programs.

Moreover, the Exchange believes it is equitable and not unfairly discriminatory to charge Customers lower fees than fees charged to Professional accounts, which are more akin to broker-dealer accounts. The securities markets generally, and the Exchange in particular, have historically aimed to improve markets for investors and develop various features within the market structure for customer benefit. As such, the Exchange believes the proposed fees for Professional accounts, as compared to Customer transaction fees, is appropriate and not unfairly discriminatory.

⁷ The Exchange notes that when executing against a Customer order, a Professional order will receive a liquidity rebate of \$0.22 per contract. This is the same liquidity rebate provided to Firm and Market Maker orders that execute against Customer orders today.

Finally, the Exchange believes that the proposed change to charge the same fee for routing Professional customer orders to various markets as is charged for Firm and Market Maker orders is reasonable, equitable, and not unfairly discriminatory in that the fee will allow the Exchange to recoup its costs attendant with offering optional routing services. The Exchange incurs various costs related to providing routing services. In order to better recover those related costs and to potentially generate additional revenue, the Exchange proposes a routing fee to provide this optional service to Professional accounts. The Exchange also notes that although routing is available to Exchange participants for customer orders, including Professionals, Exchange participants are not required to use the routing services. Rather, Exchange routing services are completely optional. Exchange participants can manage their own routing to different options exchanges or can utilize a myriad of other routing solutions that are available to market participants. Further, as noted above, the characteristics of Professional accounts tend to be more similar to broker-dealers than to non-Professional Customers. As such, the Exchange believes Professionals are more likely to be able to directly route their orders to the exchange venues where they wish to trade. By assessing a fee on Professional accounts for routing orders, the Exchange aims to recover its costs in providing this optional service to its Participants and their Professional customer accounts. The Exchange believes that providing Customers a preferred rate for routing is consistent with the long history in the options markets of such customers being given preferred fees.

Additionally, the Exchange believes that the proposed modification to the Quoting Incentive Program, which is similar to a fee structure in place on at least one of

the Exchange's competitors,⁸ will further incentivize the provision of competitively priced, sustained liquidity that will create tighter spreads, benefitting both Members and public investors. The Exchange also believes that continuing to maintain a slightly lower threshold for meeting the QIP for registered BATS Options Market Makers appropriately incentivizes Members of BATS Options to register with the Exchange as Options Market Makers. While the Exchange does wish to allow participation in the QIP by all Members, the Exchange believes that registration by additional Members as Market Makers will help to continue to increase the breadth and depth of quotations available on the Exchange. The Exchange notes that in addition to the fact that the QIP will be available to all Members, the proposal is not unfairly discriminatory despite a slightly higher quotation requirement for non-Market Makers due to the fact that registration as a BATS Options Market Maker is equally available to all Members.

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.

⁸ See Securities Exchange Act Release No. 61869 (April 7, 2010), 75 FR 19449 (April 14, 2010) (SR-ISE-2010-25) (notice of filing and immediate effectiveness of changes to fees and rebates including adoption of specific rebates for market makers qualifying for the Market Maker Plus program).

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

Pursuant to Section 19(b)(3)(A)(ii) of the Act⁹ and Rule 19b-4(f)(2) thereunder,¹⁰ the Exchange has designated this proposal as establishing or changing a due, fee, or other charge applicable to the Exchange's Members and non-members, which renders the proposed rule change effective upon filing.

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.

⁹ 15 U.S.C. 78s(b)(3)(A)(ii).

¹⁰ 17 CFR 240.19b-4(f)(2).

EXHIBIT 1

SECURITIES AND EXCHANGE COMMISSION

(Release No. 34-_____; File No. SR-BATS-2011-046)

Self-Regulatory Organizations; BATS Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Related to Fees for Use of BATS Exchange, Inc.

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 October 31, 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 Exchange has designated the proposed rule change as one establishing or changing a member due, fee, or other charge imposed by the Exchange under Section 19(b)(3)(A)(ii) of the Act³ and Rule 19b-4(f)(2) thereunder,⁴ which renders the proposed rule change 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 proposes amend the fee schedule applicable to Members⁵ and non-members of the Exchange pursuant to BATS Rules 15.1(a) and (c). While changes to the

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 15 U.S.C. 78s(b)(3)(A)(ii).

⁴ 17 CFR 240.19b-4(f)(2).

⁵ A Member is any registered broker or dealer that has been admitted to membership in the Exchange.

fee schedule pursuant to this proposal will be effective upon filing, the changes will become operative on November 1, 2011.

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 Exchange proposes to modify the "Options Pricing" section of its fee schedule to: (i) recognize a new category of participant, a "Professional", in light of recent changes the Exchange made to its rules that become operative November 1, 2011; and (ii) modify the Quoting Incentive Program, which is a program intended to incentivize sustained, aggressive quoting on the BATS options platform ("BATS Options"). In addition to these changes, the Exchange proposes to correct a typographical error on the fee schedule. Specifically, the Exchange no longer offers a discounted fee to remove liquidity for Firm or Market Makers that meet certain average daily volume requirements but the fee schedule still contains language indicating that such a reduced fee is available. The Exchange proposes to delete this language.

Professional Pricing

The Exchange recently modified the rules applicable to BATS Options to amend Rule 16.1 (Definitions) to adopt a definition of “Professional” on the Exchange and require that all Professional orders be appropriately marked by members of BATS Options (“Options Members”).⁶ As defined in Rule 16.1, which, as modified becomes operative November 1, 2011, the term “Professional” means any person or entity that (i) is not a broker or dealer in securities, and (ii) places more than 390 orders in listed options per day on average during a calendar month for its own beneficial account(s).

The Exchange currently charges and provides rebates based on the capacity in which a User is acting, either as a Firm, as a Market Maker, or on behalf of a Customer. With respect to rebates, the Exchange also currently differentiates the rebate paid to Firms and Market Makers depending on the capacity of the counter-party to the trade, either a Customer or another Firm or Market Maker. In order to properly align Professionals with other sophisticated market participants, the Exchange proposes to modify its fee schedule by listing a Professional with a Firm and Market Maker in every instance where a distinction is made for options fees and rebates based on the capacity of the User or the counter-party. For instance, the Exchange currently charges a fee of \$0.42 per contract for all Firm and Market Maker orders that remove liquidity from BATS Options. The Exchange proposes to charge this same fee for all Professional orders that remove liquidity from BATS Options.

Modification to Quoting Incentive Program (QIP)

⁶ Securities Exchange Act Release No. 65500 (October 6, 2011), 76 FR 63686 (October 13, 2011) (SR-BATS-2011-041).

BATS Options offers a Quoting Incentive Program (QIP), through which Members receive a rebate of \$0.05 per contract, in addition to any other applicable liquidity rebate, for executions subject to the QIP. Currently to qualify for the QIP a BATS Options Market Maker must be at the NBB or NBO 70% of the time for series trading between \$0.03 and \$5.00 for the front three (3) expiration months in that underlying during the current trading month. A Member not registered as a BATS Options Market Maker can also qualify for the QIP by quoting at the NBB or NBO 80% of the time in the same series. The Exchange proposes to modify the qualification levels to make qualifying for the QIP attainable by more Members and BATS Options Market Makers. Specifically, the Exchange proposes to reduce the level at which a BATS Options Market Maker must be at the NBB or NBO from 70% to 60% and for Members not registered as a BATS Options Market Maker from 80% to 70%.

All other aspects of the QIP currently in place will remain the same. As is true under the current operation of the QIP, the Exchange will determine whether a Member qualifies for QIP rebates at the end of each month by looking back at each Member's (including BATS Options Market Makers) quoting statistics during that month. If at the end of the month a Market Maker meets the 60% criteria or a Member that is not registered as a Market Maker meets the 70% criteria, the Exchange will provide the additional rebate for all executions subject to the QIP executed by that Member during that month. The Exchange will provide Members with a report on a daily basis with quoting statistics so such Members can determine whether or not they are meeting the QIP criteria. The Exchange is not proposing to impose any ADV requirements in order to qualify for the QIP at this time.

2. Statutory Basis

The Exchange believes that the proposed rule change 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 of the Act.⁷ Specifically, the Exchange believes that the proposed rule change is consistent with Section 6(b)(4) of the Act,⁸ in that it provides for the equitable allocation of reasonable dues, fees and other charges among members and other persons using any facility or system which the Exchange operates or controls. The Exchange notes that it operates in a highly competitive market in which market participants can readily direct order flow to competing venues if they deem fee levels at a particular venue to be excessive.

The Exchange believes it is equitable, reasonable and non-discriminatory to assess fees and provide liquidity rebates for Professional orders that are the same as those fees and rebates for Firms and Market Makers. The Exchange believes that application of a simple pricing structure that groups all sophisticated participants together is advantageous to all Members of BATS Options. As stated above, the Exchange operates within a highly competitive market. The Exchange, however, does not assess ongoing fees for BATS Options market data or fees related to order cancellation. Professional accounts, while otherwise considered to be Customers by virtue of not being broker-dealers, generally engage in trading activity more similar to broker-dealer proprietary trading accounts (more than 390 orders per day on average). This level of trading activity

⁷ 15 U.S.C. 78f.

⁸ 15 U.S.C. 78f(b)(4).

draws on a greater amount of Exchange system resources than that of non-Professional Customers. Simply, the more orders submitted to the Exchange, the more messages sent to and received from the Exchange, and the more Exchange system resources utilized. This level of trading activity by Professional accounts results in greater ongoing operational costs to the Exchange. As such, the Exchange aims to recover its costs by assessing Professional accounts the same fees that it assesses to other sophisticated Exchange market participants. Generally, competing options exchanges assess Professionals fees at rates more comparable to fees charged to broker-dealers. Sending orders to and trading on the Exchange are entirely voluntary. Under these circumstances, Exchange transaction fees must be competitive to attract order flow, execute orders, and grow its market. As such, the Exchange believes its trading fees proposed for Professional accounts are fair and reasonable. While Professional orders will be assessed comparably higher transaction fees than those assessed to other Customer orders, as proposed, because Professional orders will be treated in the same manner as Firm and Market Maker orders, Professional orders will have the ability to achieve a higher rebate of \$0.32 per contract when executing against other Firm, Market Maker or Professional orders (as compared to a \$0.30 per contract rebate that a Customer order would receive).⁹ The Exchange also notes that Professional orders will still qualify for additional rebates under existing programs such as the Exchange's Quoting Incentive and NBBO Setter Programs.

⁹ The Exchange notes that when executing against a Customer order, a Professional order will receive a liquidity rebate of \$0.22 per contract. This is the same liquidity rebate provided to Firm and Market Maker orders that execute against Customer orders today.

Moreover, the Exchange believes it is equitable and not unfairly discriminatory to charge Customers lower fees than fees charged to Professional accounts, which are more akin to broker-dealer accounts. The securities markets generally, and the Exchange in particular, have historically aimed to improve markets for investors and develop various features within the market structure for customer benefit. As such, the Exchange believes the proposed fees for Professional accounts, as compared to Customer transaction fees, is appropriate and not unfairly discriminatory.

Finally, the Exchange believes that the proposed change to charge the same fee for routing Professional customer orders to various markets as is charged for Firm and Market Maker orders is reasonable, equitable, and not unfairly discriminatory in that the fee will allow the Exchange to recoup its costs attendant with offering optional routing services. The Exchange incurs various costs related to providing routing services. In order to better recover those related costs and to potentially generate additional revenue, the Exchange proposes a routing fee to provide this optional service to Professional accounts. The Exchange also notes that although routing is available to Exchange participants for customer orders, including Professionals, Exchange participants are not required to use the routing services. Rather, Exchange routing services are completely optional. Exchange participants can manage their own routing to different options exchanges or can utilize a myriad of other routing solutions that are available to market participants. Further, as noted above, the characteristics of Professional accounts tend to be more similar to broker-dealers than to non-Professional Customers. As such, the Exchange believes Professionals are more likely to be able to directly route their orders to the exchange venues where they wish to trade. By assessing a fee on Professional accounts for routing orders, the Exchange aims to recover its costs in providing this

optional service to its Participants and their Professional customer accounts. The Exchange believes that providing Customers a preferred rate for routing is consistent with the long history in the options markets of such customers being given preferred fees.

Additionally, the Exchange believes that the proposed modification to the Quoting Incentive Program, which is similar to a fee structure in place on at least one of the Exchange's competitors,¹⁰ will further incentivize the provision of competitively priced, sustained liquidity that will create tighter spreads, benefitting both Members and public investors. The Exchange also believes that continuing to maintain a slightly lower threshold for meeting the QIP for registered BATS Options Market Makers appropriately incentivizes Members of BATS Options to register with the Exchange as Options Market Makers. While the Exchange does wish to allow participation in the QIP by all Members, the Exchange believes that registration by additional Members as Market Makers will help to continue to increase the breadth and depth of quotations available on the Exchange. The Exchange notes that in addition to the fact that the QIP will be available to all Members, the proposal is not unfairly discriminatory despite a slightly higher quotation requirement for non-Market Makers due to the fact that registration as a BATS Options Market Maker is equally available to all Members.

(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.

¹⁰ See Securities Exchange Act Release No. 61869 (April 7, 2010), 75 FR 19449 (April 14, 2010) (SR-ISE-2010-25) (notice of filing and immediate effectiveness of changes to fees and rebates including adoption of specific rebates for market makers qualifying for the Market Maker Plus program).

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

No written comments were solicited or received.

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

Pursuant to Section 19(b)(3)(A)(ii) of the Act¹¹ and Rule 19b-4(f)(2) thereunder,¹² the Exchange has designated this proposal as establishing or changing a due, fee, or other charge applicable to the Exchange's Members and non-members, which renders the proposed rule change effective upon filing.

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. Please include File No. SR-BATS-2011-046 on the subject line.

Paper Comments:

¹¹ 15 U.S.C. 78s(b)(3)(A)(ii).

¹² 17 CFR 240.19b-4(f)(2).

- 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-2011-046. 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 change 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-2011-046 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.¹³

Cathy H. Ahn
Deputy Secretary

¹³ 17 CFR 200.30-3(a)(12).

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

BATS BZX Exchange Fee Schedule
Effective [October 3]November 1, 2011

The following is the Schedule of Fees (pursuant to Rule 15.1(a) and (c)) for BATS Exchange, Inc. (“BZX Exchange” or “BZX”). The Schedule of Fees is divided into Equities Pricing, Options Pricing and Physical Connection Charges.

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Options Pricing:

All references to “per contract” mean “per contract executed”

“ADV” means average daily volume calculated as the number of contracts added or removed, combined, per day on a monthly basis; routed contracts are not included in ADV calculation; with prior notice to the Exchange, a Member may aggregate ADV with other Members that control, are controlled by, or are under common control with such Member

“Customer” applies to any transaction identified by a Member for clearing in the Customer range at the Options Clearing Corporation (“OCC”), excluding any transaction for a “Professional” as defined in Exchange Rule 16.1

“Firm” applies to any transaction identified by a Member for clearing in the Firm range at the OCC

“Market Maker” applies to any transaction identified by a Member for clearing in the Market Maker range at the OCC

“Professional” applies to any transaction identified by a Member as such pursuant to Exchange Rule 16.1

“TCV” means total consolidated volume calculated as the volume reported by all exchanges to the consolidated transaction reporting plan for the month for which the fees apply

Fees for Accessing Liquidity for All Securities

\$0.27 charge per contract for a Customer order that removes liquidity from the BATS Options order book where the Member has an ADV equal to or greater than 0.30% of average TCV

\$0.30 charge per contract for a Customer order that removes liquidity from the BATS Options order book and such Member does not qualify for a lower charge based on their ADV

\$0.42 charge per contract for a Professional, Firm or Market Maker order that removes liquidity from the BATS Options order book [and such Member does not qualify for a lower charge based on their ADV]

Liquidity Rebates for All Securities

\$0.30 rebate per contract for a Customer order that adds liquidity to the BATS Options order book

\$0.22 rebate per contract for a Professional, Firm or Market Maker order that adds liquidity to the BATS Options order book that is removed by a Customer order

\$0.32 rebate per contract for a Professional, Firm or Market Maker order that adds liquidity to the BATS Options order book that is removed by a Professional, Firm or Market Maker order

NBBO Setter Liquidity Rebates for All Securities (in addition to any other applicable liquidity rebates)

\$0.06 additional rebate per contract for any order that adds liquidity to the BATS Options order book that sets a new national best bid or offer where the adding Member has an ADV equal to or greater than 0.30% of average TCV but less than 1% of average TCV

\$0.10 additional rebate per contract for any order that adds liquidity to the BATS Options order book that sets a new national best bid or offer where the adding Member has an ADV equal to or greater than 1% of average TCV

Quoting Incentive Program (“QIP”) Liquidity Rebates (in addition to any other applicable liquidity rebates)

0.05 additional rebate per contract for any order that adds liquidity to the BATS Options order book in options products in which Members meet one of the following quoting levels:

- (1) BATS Options Market Makers that quote at the national best bid or offer [70%]60% of the time for series trading between \$0.03 and \$5.00 for the front three (3) expiration months in that underlying for the month for which fees apply; or
- (2) All other BATS Options Members that quote at the national best bid or offer [80%]70% of the time for series trading between \$0.03 and \$5.00 for the front three (3) expiration months in that underlying for the month for which fees apply.

Standard Best Execution Routing or Destination Specific Routing (“BATS Options+”)

Charge per contract for contracts executed using “CYCLE”, “RECYCLE”, “Parallel D”, “Parallel 2D”, or BATS Options+ routing:

		Customer	<u>Professional</u> / Firm/Market Maker
AMEX BOX	ARCA (Classic issues) ⁴ ISE (Classic issues) ⁴	\$0.10	\$0.55

CBOE	PHLX (Classic issues) ⁴		
C2 ISE (Make/Take issues) ⁴ PHLX (Make/Take issues) ⁴		\$0.30	\$0.55
NOM ARCA (Make/Take issues) ⁴		\$0.50	\$0.55

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