

Required fields are shown with yellow backgrounds and asterisks.

Page 1 of * 40	SECURITIES AND EXCHANGE COMMISSION WASHINGTON, D.C. 20549 Form 19b-4		File No.* SR - 2012 - * 024	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"/>			
Pilot <input type="checkbox"/>	Extension of Time Period for Commission Action * <input type="checkbox"/>	Date Expires * <input type="text"/>	19b-4(f)(1) <input type="checkbox"/>	19b-4(f)(2) <input type="checkbox"/>	19b-4(f)(3) <input type="checkbox"/>	19b-4(f)(4) <input type="checkbox"/>	19b-4(f)(5) <input type="checkbox"/>	19b-4(f)(6) <input checked="" type="checkbox"/>
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 *). Proposal to amend Rules 11.13, 21.9 and Rule 27.2 to modify Exchange system functionality when the consolidated market is crossed and to modify the handling of orders that have been rejected after routing away through the Exchange's affiliated broker-dealer.								
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 06/15/2012 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 EFFF website.

Form 19b-4 Information (required)

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The self-regulatory organization must provide all required information, presented in a clear and comprehensible manner, to enable the public to provide meaningful comment on the proposal and for the Commission to determine whether the proposal is consistent with the Act and applicable rules and regulations under the Act.

Exhibit 1 - Notice of Proposed Rule Change (required)

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The Notice section of this Form 19b-4 must comply with the guidelines for publication in the Federal Register as well as any requirements for electronic filing as published by the Commission (if applicable). The Office of the Federal Register (OFR) offers guidance on Federal Register publication requirements in the Federal Register Document Drafting Handbook, October 1998 Revision. For example, all references to the federal securities laws must include the corresponding cite to the United States Code in a footnote. All references to SEC rules must include the corresponding cite to the Code of Federal Regulations in a footnote. All references to Securities Exchange Act Releases must include the release number, release date, Federal Register cite, Federal Register date, and corresponding file number (e.g., SR-[SRO]-xx-xx). A material failure to comply with these guidelines will result in the proposed rule change being deemed not properly filed. See also Rule 0-3 under the Act (17 CFR 240.0-3)

Exhibit 2 - Notices, Written Comments, Transcripts, Other Communications

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Exhibit Sent As Paper Document

Copies of notices, written comments, transcripts, other communications. If such documents cannot be filed electronically in accordance with Instruction F, they shall be filed in accordance with Instruction G.

Exhibit 3 - Form, Report, or Questionnaire

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Exhibit Sent As Paper Document

Copies of any form, report, or questionnaire that the self-regulatory organization proposes to use to help implement or operate the proposed rule change, or that is referred to by the proposed rule change.

Exhibit 4 - Marked Copies

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The full text shall be marked, in any convenient manner, to indicate additions to and deletions from the immediately preceding filing. The purpose of Exhibit 4 is to permit the staff to identify immediately the changes made from the text of the rule with which it has been working.

Exhibit 5 - Proposed Rule Text

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The self-regulatory organization may choose to attach as Exhibit 5 proposed changes to rule text in place of providing it in Item I and which may otherwise be more easily readable if provided separately from Form 19b-4. Exhibit 5 shall be considered part of the proposed rule change.

Partial Amendment

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

1. Text of the Proposed Rule Change

Pursuant to the provisions of Section 19(b)(1) of the Securities Exchange Act of 1934 (the “Exchange Act” or 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 proposal to amend Rule 11.13 entitled “Order Execution”, Rule 21.9 entitled “Order Routing” and Rule 27.2 entitled “Order Protection”, to modify Exchange system functionality when the consolidated market is crossed and to modify the handling of orders that have been rejected after routing away through the Exchange’s affiliated broker-dealer. The proposal applies to both the BATS equity securities trading platform (“BATS Equities”) and the BATS equity options trading platform (“BATS Options”). The Exchange has designated this proposal as non-controversial and provided the Commission with the notice required by Rule 19b-4(f)(6)(iii) under the Act.³

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

* * * * *

CHAPTER XI. TRADING RULES

* * * * *

Rule 11.13. Order Execution

Subject to the restrictions under these Exchange Rules or the Act and the rules and regulations thereunder, orders shall be matched for execution in accordance with this Rule 11.13. For any execution of a short sale order to occur on the Exchange when a short sale price test restriction is in effect, the price must be better than the NBB, unless the sell order was initially displayed by the System at a price above the then current NBB

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 17 CFR 240.19b-4(f)(6)(iii).

or is marked “short exempt” pursuant to Regulation SHO. For any execution to occur during Regular Trading Hours, the price must be equal to or better than the Protected NBBO, unless the order is marked ISO or unless the execution falls within another exception set forth in Rule 611(b) of Regulation NMS. For any execution to occur during the Pre-Opening Session or the After Hours Trading Session, the price must be equal to or better than the highest Protected Bid or lowest Protected Offer, unless the order is marked ISO or a Protected Bid is crossing a Protected Offer. Notwithstanding the foregoing, in the event that a Protected Bid is crossing a Protected Offer, whether during or outside of Regular Trading Hours, unless an order is marked ISO, the Exchange will not execute any portion of a bid at a price more than the greater of 5 cents or 0.5 percent higher than the lowest Protected Offer or any portion of an offer that would execute at a price more than the greater of 5 cents or 0.5 percent lower than the highest Protected Bid. Upon instruction from a User, the Exchange will cancel any incoming order from such User in the event a Protected Bid is crossing a Protected Offer. For purposes of this Rule 11.13 any order falling within the parameters of this paragraph shall be referred to as “executable”. To the extent an incoming order is executable because a Protected Bid is crossing a Protected Offer but such incoming order is eligible for routing and there is a Protected Bid or Protected Offer available at another Trading Center that is better priced than the bid or offer against which the order would execute on the Exchange, the Exchange will first seek to route the order to such better priced quotation pursuant to Rule 11.13(a)(2). An order will be cancelled back to the User if, based on market conditions, User instructions, applicable Exchange Rules and/or the Act and the rules and regulations thereunder, such order is not executable, cannot be routed to another [t]Trading [c]Center pursuant to Rule 11.13(a)(2) below and cannot be posted to the BATS Book.

(a) Execution and Routing.

(1) (No changes.)

(2) *Routing to Away Trading Centers.* Depending on the instructions set by the User when the incoming order was originally entered, if a market or marketable limit order has not been executed in its entirety pursuant to paragraph (a)(1) above, the order shall be eligible for additional processing under one or more of the routing options listed under paragraph (a)(3) below. An order marked “short” when a short sale price test restriction is in effect is not eligible for routing by the Exchange. If an order is ineligible for routing due to a short sale price test restriction and such order is an IOC or a market order, then the order will be cancelled. If an order is ineligible for routing due to a short sale price test restriction and such order is a limit order, the Exchange will post the unfilled balance of the order to the BATS Book, subject to the price sliding process as defined in paragraph (g) of Rule 11.9. With respect to an order that is eligible for routing, the System will designate orders as IOCs and will cause such orders to be routed to one or more Trading Centers (as defined in Rule 2.11) for potential execution, per the entering User’s instructions, in compliance with Rule 611 under Regulation NMS. After the System receives responses to orders that were routed away, to the extent an order is not executed in full through the routing

process, the System will process the balance of such order as follows. Depending on parameters set by the User when the incoming order was originally entered, the System will either:

(A) If a limit order, post the unfilled balance of the order to the BATS Book, subject to the price sliding process as defined in paragraph (g) of Rule 11.9;

(B) repeat the process described in paragraph (a)(1) above and this paragraph (a)(2) by executing against the BATS Book and/or routing orders to other Trading Centers until the original, incoming order is executed in its entirety or, if not executed in its entirety and a limit order, post the unfilled balance of the order in the BATS Book if the order's limit price is reached; or

(C) repeat the process described in paragraph (a)(1) above and this paragraph (a)(2) by executing against the BATS Book and/or routing orders to other Trading Centers, provided that the System will check the BATS Book for liquidity at the order's limit price only one time pursuant to paragraph (a)(1), then route orders at that limit price to other Trading Centers pursuant to this paragraph (a)(2), and then cancel any unfilled balance of the order back to User.

Notwithstanding the foregoing, to the extent the System is unable to access a Protected Quotation and there are no other accessible Protected Quotations at the NBBO, the System will cancel the order back to the User, provided, however, that this provision will not apply to Protected Quotations published by a Trading Center against which the Exchange has declared self-help pursuant to paragraph (d) below. To the extent the unfilled balance of an order has been posted to the BATS Book pursuant to this paragraph, should the order subsequently be locked or crossed by another accessible Trading Center, the System shall route the order to the locking or crossing Trading Center if instructed to do so by the User (the "RECYCLE Option"). Unless otherwise specified, the RECYCLE Option may be combined with any of the System routing options specified in paragraph (a)(3) below.

(3) (No changes.)

(b)-(e) (No changes.)

Interpretations and Policies

.01 (No changes.)

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Rule 21.9. Order Routing

(a) General. For System securities, the order routing process shall be available to Users from 9:30 a.m. Eastern Time until market close, and shall route orders as follows. Users can designate orders as either available for routing or not available for routing. Orders designated as not available for routing shall follow the book processing rules set forth in Rule 21.8 (Order Display and Book Processing) above.

(1) Routing to Away Trading Centers. Orders designated as available for routing will first check the BATS Options Book for available contracts for execution pursuant to Rule 21.8 (Order Display and Book Processing). After checking the BATS Options Book for available contracts, the System will designate orders as IOCs and will cause such orders to be routed to one or more options exchanges for potential execution, per the entering User's instructions. After the System receives responses to orders that were routed away, to the extent an order is not executed in full through the routing process, the System will process the balance of such order as follows. Depending on parameters set by the User when the incoming order was originally entered, the System will either:

(A) if a limit order, post the unfilled balance of the order to the BATS Options Book, subject to the displayed price sliding process as defined in paragraph (d)(6) of Rule 21.1, if applicable;

(B) repeat the process described above by executing against the BATS Options Book and/or routing to other options exchanges until the original, incoming order is executed in its entirety;

(C) repeat the process described above by executing against the BATS Options Book and/or routing to other options exchanges until the original, incoming order is executed in its entirety, or, if not executed in its entirety and a limit order, post the unfilled balance of the order on the BATS Options Book if the order's limit price is reached; or

(D) repeat the process described above by executing against the BATS Options Book and/or routing to other options exchanges, provided that the System will check the BATS Options Book for liquidity at the order's limit price only one time, then route orders at that limit price to other options exchanges, and then cancel any unfilled balance of the order back to the User.

Notwithstanding the foregoing, to the extent the System is unable to access a Protected Quotation and there are no other accessible Protected Quotations at the NBBO, the System will cancel the order back to the User, provided, however, that this provision will not apply to Protected Quotations published by an options exchange against which the Exchange has declared self-help pursuant to Rule

27.2(b)(1). To the extent the unfilled balance of an order has been posted to the BATS Options Book, should the order subsequently be locked or crossed by another options exchange, the System shall route the order to the locking or crossing options exchange if instructed to do so by the User (the “RECYCLE Option”). Unless otherwise specified, the RECYCLE Option may be combined with any of the System routing options specified in paragraph (a)(2) below.

(2) (No changes.)

(b)-(f) (No changes.)

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CHAPTER XXVII. INTERMARKET LINKAGE RULES

* * * * *

Rule 27.2. Order Protection

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

Interpretations and Policies

.01 Notwithstanding the exceptions set forth above, in the event of a Crossed Market, unless an order is marked ISO, the Exchange will not execute any portion of a bid at a price more than the greater of 5 cents or 0.5 percent higher than the lowest Protected Offer or any portion of an offer that would execute at a price more than the greater of 5 cents or 0.5 percent lower than the highest Protected Bid. Upon instruction from a User, the Exchange will cancel any incoming order from such User in the event of a Crossed Market.

.02 To the extent an incoming order is executable because a Protected Bid is crossing a Protected Offer as set forth in paragraph (b)(3) of this Rule but such incoming order is eligible for routing and there is a Protected Bid or Protected Offer available at another options exchange that is better priced than the bid or offer against which the order would execute on the Exchange, the Exchange will first seek to route the order to such better priced quotation pursuant to Rule 21.9.

* * * * *

(b) Not applicable.

(c) Not applicable.

2. Procedures of the Self-Regulatory Organization

The proposed rule filing 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 this proposal.

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

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

(a) Purpose

The purpose of this rule filing is to modify Exchange system functionality when the consolidated market is crossed and to modify the handling of orders that have been rejected after routing away through the Exchange's affiliated broker-dealer. The proposal applies to both BATS Equities and BATS Options, as described below.

BATS Equities

The Exchange is proposing changes to its system functionality for BATS Equities to implement a price constraint in the event the Exchange receives a non-routable order and a Protected Bid⁴ and a Protected Offer⁵ are crossed (a "Crossed Market"). The

⁴ As defined in BATS Rule 1.5(t), Protected Bid means a bid in a stock that is displayed by an automated trading center, disseminated pursuant to an effective national market system plan, and an automated quotation that is the best bid of a national securities exchange or association

⁵ As defined in BATS Rule 1.5(t), Protected Offer means an offer in a stock that is displayed by an automated trading center, disseminated pursuant to an effective

Exchange is also proposing to provide its Users with the option to avoid any execution when there is a Crossed Market. Finally, the Exchange is proposing a change to the way that it responds to rejections of orders that were routed to a Protected Quotation.⁶

Under current BATS Rules, for any execution to occur on BATS Equities during Regular Trading Hours,⁷ the price must be equal to or better than the Protected NBBO,⁸ unless the order is marked ISO or unless the execution falls within another exception set forth in Rule 611(b) of Regulation NMS. For any execution to occur during the Pre-Opening Session⁹ or the After Hours Trading Session,¹⁰ the price must be equal to or better than the highest Protected Bid or lowest Protected Offer. As noted below, the Exchange also currently allows executions of orders outside of Regular Trading Hours when an order is marked ISO and there is a Crossed Market.

The restrictions on executions described above reflect the Exchange's implementation of the trade-through rule of Regulation NMS, Rule 611, which only applies during Regular Trading Hours; however the Exchange has also implemented trade-through protection outside of Regular Trading Hours in order to promote the

national market system plan, and an automated quotation that is the best offer of a national securities exchange or association.

⁶ As defined in BATS Rule 1.5(t), Protected Quotation means a quotation that is a Protected Bid or Protected Offer.

⁷ As defined in BATS Rule 1.5(w), Regular Trading Hours means the time between 9:30 a.m. and 4:00 p.m. Eastern Time.

⁸ As defined in BATS Rule 1.5(s), Protected NBBO means the national best bid or offer that is a Protected Quotation.

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

¹⁰ As defined in BATS Rule 1.5(c), the After Hours Trading Session means the time between 4:00 p.m. and 5:00 p.m. Eastern Time.

handling of orders in a consistent and orderly fashion. Pursuant to the exception of Rule 611(b)(4) during Regular Trading Hours, as well as during the Pre-Opening Session and the After Hours Trading Session, the Exchange does not currently impose trade-through protections when there is a Crossed Market. In order to constrain the price of executions when there is a Crossed Market, in the event that a Protected Bid is crossing a Protected Offer, whether during or outside of Regular Trading Hours, unless an order is marked ISO, BATS Equities will not execute any portion of a bid at a price more than the greater of 5 cents or 0.5 percent higher than the lowest Protected Offer or any portion of an offer that is not marked ISO that would execute at a price more than the greater of 5 cents or 0.5 percent lower than the highest Protected Bid. In order to provide an additional option for Users¹¹ that do not want any orders to execute when there is a Crossed Market, upon instruction from a User, BATS Equities will not execute any incoming order from such User in the event a Protected Bid is crossing a Protected Offer. The Exchange believes that the thresholds proposed in this rule filing will help avoid executions of orders at prices that are significantly worse than the NBBO.¹²

The following example demonstrates how the Exchange's Crossed Market threshold would operate for BATS Equities:

- The NBBO in security ABC is \$5.00 (bid) by \$4.98 (offer), and thus, there is a Crossed Market;
- A User submits a non-routable market order (e.g., designated as a "BATS Only" order) to buy 1,000 shares of ABC;

¹¹ As defined in BATS Rule 1.5(cc), a User is any Member or Sponsored Participant who is authorized to access the Exchange's system pursuant to Exchange Rules.

¹² As defined in BATS Rule 1.5(o), NBBO shall mean the national best bid or offer.

- The Exchange has liquidity in ABC as follows: 100 shares to sell for \$4.98, 100 shares to sell for \$5.00, 200 shares to sell for \$5.03, and 300 shares to sell for \$5.05.

Under the circumstances described above, the incoming market order to buy would be executed as follows:

- 100 shares executed on the Exchange at the \$4.98 price level;
- 100 shares executed on the Exchange at the \$5.00 price level;
- 200 shares executed on the Exchange at the \$5.03 price level;
- 600 shares cancelled back to the User.

As proposed, with a Crossed Market of \$5.00 by \$4.98, the Exchange will execute any incoming buy orders up to and including \$5.03 and any incoming sell orders down to and including \$4.95 per share. Accordingly, under this example, 400 shares of the incoming buy order would be executed, including 200 shares at the Crossed Market threshold of \$5.03. The remaining 600 shares of the market order would be cancelled back to the User because the liquidity on the Exchange at the \$5.05 price level exceeds the thresholds set forth in proposed Rule 11.13. The Exchange notes that in the event the order was designated as eligible for routing, the Exchange's normal routing strategies would apply, and, to the extent that other market centers have better prices than are available on the BATS Book,¹³ the Exchange would route the order away to such other market centers rather than executing solely on the Exchange. Accordingly, the Exchange proposes to add language to Rule 11.13 to make clear that to the extent an incoming order is executable because a Protected Bid is crossing a Protected Offer but such incoming order

¹³ As defined in BATS Rule 1.5(e), BATS Book means the System's electronic file of orders.

is eligible for routing and there is a Protected Bid or Protected Offer available at another Trading Center¹⁴ that is better priced than the bid or offer against which the order would execute on the Exchange, the Exchange will first seek to route the order to such better priced quotation pursuant to Rule 11.13(a)(2).

The Exchange has proposed to exclude ISOs from the proposed pricing threshold because a User is subject to certain specific obligations when pricing and submitting an order as an ISO.¹⁵ The Exchange believes that rejecting an ISO upon receipt due to a Crossed Market is inconsistent with the general notion of an ISO, which allows a User to designate a price at which the Exchange can execute the order without regard to the Exchange's view of the NBBO.

In addition to the implementation of Crossed Market price constraints and the ability to designate orders as ineligible for execution during a Crossed Market, the Exchange is proposing to modify the way that it handles rejections received from other Trading Centers. Currently the Exchange routes all orders through its affiliated broker-dealer, BATS Trading, Inc. ("BATS Trading"). In certain instances, BATS Trading, in turn, routes to certain third party broker-dealers in order to ensure that the Exchange has effective and redundant connections to all other Trading Centers with Protected

¹⁴ As defined in BATS Rule 2.11, a Trading Center is another securities exchange, facility of a securities exchange, automated trading system, electronic communication network or other broker or dealer.

¹⁵ See 17 CFR 240.600(b)(30) and 611(c); see also BATS Rule 11.9(d)(1), which states that "[t]he Exchange relies on the marking of an order as an ISO order when handling such order, and thus, it is the entering Member's responsibility, not the Exchange's responsibility, to comply with the requirements of Regulation NMS relating to Intermarket Sweep Orders." The Exchange notes that as a self-regulatory organization it conducts regulatory oversight of each Exchange Member's use of Intermarket Sweep Orders on the Exchange.

Quotations. BATS Trading occasionally receives “rejections” of orders either from the Trading Centers to which it routes directly or through the third party broker-dealers through which it routes. Such rejections can be for various reasons, including a technical problem with the order, market access thresholds implemented pursuant to SEC Rule 15c3-5, or other operational thresholds. The Exchange currently handles orders on which it receives rejections by either cancelling the order back to the User or, if the order submitted by the User instructs the Exchange to do so, by posting the order to the Exchange’s order book after subjecting such order to its price sliding process pursuant to Rule 11.9(g) in order to avoid locking any Protected Quotation that it cannot access. Rather than posting an order to its book, the Exchange proposes to cancel all orders for which it has received a rejection due to an inability to access another Trading Center, providing a User with the opportunity to submit a new order or seek another path to the applicable Protected Quotation. The Exchange has also proposed to make clear that such a cancellation will not apply to Protected Quotations published by a Trading Center against which the Exchange has declared self-help pursuant to Exchange Rule 11.13(d). Although a Protected Quotation may be inaccessible to the Exchange, once the Exchange has declared self-help pursuant to Rule 11.13(d), the Exchange disregards, and will continue to execute transactions and route orders without regard to, such Protected Quotations. Notwithstanding the foregoing, however, even after the Exchange has received a rejection from a Trading Center, if there are multiple Trading Centers included in the routing option selected by the User that have Protected Quotations at the NBBO,

the System¹⁶ will continue to route the order to the Protected Quotations at other such other Trading Centers at that price level.

BATS Options

The Exchange proposes to make each of the proposed changes described above to the functionality applicable to trading on and routing away from, BATS Options. The Exchange notes that there are no substantive differences to the proposed functionality; rather, the only differences between the proposal for BATS Equities and BATS Options are the references to applicable rules and terms.

The Exchange is proposing changes to its system functionality for BATS Options to implement a price constraint in the event the Exchange receives a non-routable order and a Protected Bid is higher than a Protected Offer¹⁷ in a series of an Eligible Class (a “Crossed Market”).¹⁸ The Exchange is also proposing to provide its Users with the option to avoid any execution when there is a Crossed Market. Finally, the Exchange is

¹⁶ As defined in BATS Rule 1.5(aa), System means the electronic communications and trading facility designate by the Board through which securities orders of Users are consolidated for ranking, execution and, when applicable, routing away.

¹⁷ As defined in BATS 27.1(18), “Protected Bid” or “Protected Offer” means a Bid or Offer in an options series, respectively, that: (A) Is disseminated pursuant to the OPRA Plan; and (B) Is the Best Bid or Best Offer, respectively, displayed by an Eligible Exchange. An “Eligible Exchange” is a national securities exchange registered with the SEC in accordance with Section 6(a) of the Exchange Act that: (a) is a Participant Exchange in OCC (as that term is defined in Section VII of the OCC by-laws); (b) is a party to the OPRA Plan (as that term is described in Section I of the OPRA Plan); and (c) if the national securities exchange chooses not to become a party to this Plan, is a participant in another plan approved by the Commission providing for comparable Trade-Through and Locked and Crossed Market protection.

¹⁸ This definition for Crossed Market is consistent with the definition contained in BATS Rule 27.1(5).

proposing a change to the way that it responds to rejections of orders that were routed to a Protected Quotation.¹⁹

Under current BATS Rules, Members are prohibited from effecting Trade-Throughs²⁰ on BATS Options unless the execution falls within another exception set forth in BATS Rule 27.2(b), which includes an exception for any order that is marked ISO. Pursuant to the exception of Rule 27.2(b)(3), the Exchange does not prohibit Trade-Throughs when there is a Crossed Market. In order to constrain the price of executions when there is a Crossed Market, in the event that a Protected Bid is crossing a Protected Offer, unless an order is marked ISO, BATS Options will not execute any portion of a bid at a price more than the greater of 5 cents or 0.5 percent higher than the lowest Protected Offer or any portion of an offer that is not marked ISO that would execute at a price more than the greater of 5 cents or 0.5 percent lower than the highest Protected Bid. In order to provide an additional option for Users²¹ that do not want any orders to execute when there is a Crossed Market, upon instruction from a User, BATS Options will not execute any incoming order from such User in the event a Protected Bid is crossing a Protected

¹⁹ As defined in BATS Rule 27.1(19), Protected Quotation means a Protected Bid or Protected Offer.

²⁰ As defined in BATS Rule 27.1(22), a Trade-Through is a transaction in an options series at a price that is lower than a Protected Bid or higher than a Protected Offer.

²¹ As defined in BATS Rule 16.1(a)(63), a User is any Options Member or Sponsored Participant who is authorized to access the Exchange's system pursuant to Exchange Rules.

Offer. The Exchange believes that the thresholds proposed in this rule filing will help avoid executions of orders at prices that are significantly worse than the NBBO.²²

The following example demonstrates how the Exchange's Crossed Market threshold would operate for BATS Options:

- The NBBO in options series XYZ is \$2.00 (bid) by \$1.98 (offer), and thus, there is a Crossed Market;
- A User submits a non-routable market order (e.g., designated as a "BATS Only" order) to buy 100 contracts of XYZ;
- The Exchange has liquidity in XYZ as follows: 10 contracts to sell for \$1.98, 10 contracts to sell for \$2.00, 20 contracts to sell for \$2.03, and 30 contracts to sell for \$2.05.

Under the circumstances described above, the incoming market order to buy would be executed as follows:

- 10 contracts executed on the Exchange at the \$1.98 price level;
- 10 contracts executed on the Exchange at the \$2.00 price level;
- 20 contracts executed on the Exchange at the \$2.03 price level;
- 60 contracts cancelled back to the User.

As proposed, with a Crossed Market of \$2.00 by \$1.98, the Exchange will execute any incoming buy orders up to and including \$2.03 and any incoming sell orders down to and including \$1.95 per share. Accordingly, under this example, 40 contracts of the incoming buy order would be executed, including 20 contracts at the Crossed Market threshold of \$2.03. The remaining 60 contracts of the market order would be cancelled back to the

²² As defined in BATS Rule 27.1(11), NBBO shall mean the national best bid and offer in an option series as calculated by an Eligible Exchange.

User because the liquidity on the Exchange at the \$2.05 price level exceeds the thresholds set forth in proposed Interpretation and Policy .01 to Rule 27.2. The Exchange notes that in the event the order was designated as eligible for routing, the Exchange's normal routing strategies would apply, and, to the extent that other market centers have better prices than are available on the BATS Options Book,²³ the Exchange would route the order away to such other market centers rather than executing solely on the Exchange. Accordingly, the Exchange proposes to add Interpretation and Policy .02 to Rule 27.2 to make clear that to the extent an incoming order is executable because a Protected Bid is crossing a Protected Offer but such incoming order is eligible for routing and there is a Protected Bid or Protected Offer available at another options exchange that is better priced than the bid or offer against which the order would execute on the Exchange, the Exchange will first seek to route the order to such better priced quotation pursuant to Rule 21.9.

As described for BATS Equities, the Exchange has proposed to exclude ISOs from the proposed pricing threshold for BATS Options because a User is subject to certain specific obligations when pricing and submitting an order as an ISO. The Exchange believes that rejecting an ISO upon receipt due to a Crossed Market is inconsistent with the general notion of an ISO, which allows a User to designate a price at which the Exchange can execute the order without regard to the Exchange's view of the NBBO.

²³ As defined in BATS Rule 16.1(a)(9), BATS Options Book means the means the electronic book of options orders maintained by the System.

In addition to the implementation of Crossed Market price constraints and the ability to designate orders as ineligible for execution during a Crossed Market, the Exchange is proposing to modify the way that it handles rejections received from other options exchanges. Currently the Exchange routes all orders through its affiliated broker-dealer, BATS Trading, Inc. (“BATS Trading”). In certain instances, BATS Trading, in turn, routes to certain third party broker-dealers in order to ensure that the Exchange has effective and redundant connections to all other options exchanges with Protected Quotations. BATS Trading occasionally receives “rejections” of orders either from the options exchanges to which it routes directly or through the third party broker-dealers through which it routes. Such rejections can be for various reasons, including a technical problem with the order, market access thresholds implemented pursuant to SEC Rule 15c3-5, or other operational thresholds. The Exchange currently handles orders on which it receives rejections by either cancelling the order back to the User or, if the order submitted by the User instructs the Exchange to do so, by posting the order to the Exchange’s order book after subjecting such order to its price sliding process pursuant to Rule 21.1 in order to avoid locking any Protected Quotation that it cannot access. Rather than posting an order to its book, the Exchange proposes to cancel all orders for which it has received a rejection due to an inability to access another options exchange, providing a User with the opportunity to submit a new order or seek another path to the applicable Protected Quotation. The Exchange has also proposed to make clear that such a cancellation will not apply to Protected Quotations published by an options exchange against which the Exchange has declared self-help pursuant to Exchange Rule 27.2(b)(1). Although a Protected Quotation may be inaccessible to the Exchange, once the Exchange

has declared self-help pursuant to Rule 27.2(b)(1), the Exchange disregards, and will continue to execute transactions and route orders without regard to, such Protected Quotations. Notwithstanding the foregoing, however, even after the Exchange has received a rejection from an options exchange, if there are multiple options exchanges included in the routing option selected by the User that have Protected Quotations at the NBBO, the System²⁴ will continue to route the order to the Protected Quotations at other such other options exchanges at that price level.

(b) Statutory Basis

The Exchange believes that its proposal 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.²⁵ In particular, the proposal is consistent with Section 6(b)(5) of the Act,²⁶ 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 by helping to avoid executions of orders on the Exchange at prices that are significantly worse than the national best bid or national best offer at the time an order is initially received by the Exchange, even if executions are permissible pursuant to Regulation NMS or under the Exchange's analogous rules for BATS Options. The Exchange believes that permitting Users to avoid any execution of an incoming order in a Crossed Market is an additional functionality that is consistent with the protection of investors and the public interest.

²⁴ As defined in BATS Rule 16.1(a)(59), System means the automated trading system used by BATS Options for the trading of options contracts.

²⁵ 15 U.S.C. 78f(b).

²⁶ 15 U.S.C. 78f(b)(5).

Although the Exchange does not believe that any other self-regulatory organization has exactly the same Crossed Market threshold in place, the Exchange as well as other market centers have implemented a variety of pricing thresholds to constrain executions and protect market participants.²⁷ Also, this proposal is consistent with existing Exchange rules that allow for the breaking of trades deemed clearly erroneous²⁸ or in obvious error²⁹ by reference to objective thresholds worse than the NBBO. The Exchange believes that the proposed pricing thresholds are reasonable because they are significantly narrower than thresholds in place on BATS Equities for market orders received by the Exchange³⁰ and also narrower than applicable clearly erroneous thresholds for BATS Equities. A narrow threshold will protect market participants and their customers from potentially executing at prices away from the NBBO when there is a Crossed Market, which can be an indication of a pricing anomaly in a security or a potential systems issue at another Trading Center or options exchange. Further, the proposed threshold is consistent with the protection of investors and the public interest because it will help to avoid clearly erroneous executions or obvious error transactions from occurring in the first place, rather than allowing an execution to occur and breaking the trade based on Exchange rules.

²⁷ See, e.g., BATS Rule 11.9(a)(2), which constrains the executions of a market order on BATS to \$0.50 or 5 percent away from the NBBO at the time the order initially reaches the Exchange; see also NYSE Arca Rule 7.31(a); NASDAQ Rule 4751(f)(13).

²⁸ See BATS Rule 11.17.

²⁹ See BATS Rule 20.6.

³⁰ See supra note 27.

Finally, the Exchange believes that the cancellation of all orders that have been rejected by other market centers or third party routers, rather than posting such orders to the Exchange's book will provide Users with more immediate certainty regarding their orders, and will provide Users the ability to modify and re-submit or send their orders via a different path to attempt to access the applicable Protected Quotation. Accordingly, the modifications to BATS Rules 11.13 and 21.9 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.

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)

The Exchange has designated this rule filing as non-controversial under Section 19(b)(3)(A) of the Act³¹ and paragraph (f)(6) of Rule 19b-4 thereunder.³² The Exchange asserts that the proposed rule change: (1) will not significantly affect the protection of

³¹ 15 U.S.C. 78s(b)(3)(A).

³² 17 CFR 240.19b-4.

investors or the public interest, (2) will not impose any significant burden on competition, and (3) and will not become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate. In addition, the Exchange provided the Commission with written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing, or such shorter time as designated by the Commission.³³ The proposed changes to implement pricing thresholds are consistent with applicable price constraints for market orders.³⁴ Accordingly, the Exchange has designated this rule filing as non-controversial under Section 19(b)(3)(A) of the Act³⁵ and paragraph (f)(6) of Rule 19b-4 thereunder.³⁶

The Exchange requests that the Commission waive the 30-day operative waiting period contained in Exchange Act Rule 19b-4(f)(6)(iii).³⁷ The Exchange requests this waiver so that the proposal may become operative immediately upon filing. The Exchange believes that investors and market participants will benefit from additional protection from certain executions under Crossed Market conditions and that such benefits should not be delayed. Further, the Exchange believes that cancellation of orders that have been rejected by other market centers or other third parties will provide Users with additional certainty regarding their orders and the ability to re-route their orders directly or through another venue or to modify and re-submit their orders to the

³³ 17 CFR 240.19b-4(f)(6)(iii).

³⁴ See supra note 27.

³⁵ 15 U.S.C. 78s(b)(3)(A).

³⁶ 17 CFR 240.19b-4(f)(6).

³⁷ 17 CFR 240.19b-4(f)(6)(iii).

Exchange. Accordingly, because the Exchange believes that the Crossed Market thresholds and routing changes described in this filing are “non-controversial” and are important to its maintenance of a fair and orderly market and the protection of investors, the Exchange has filed this proposal for immediate effectiveness and requests that the Commission waive the 30-day operative waiting period contained in Rule 19b-4(f)(6)(iii) under the Act.³⁸ Based on the foregoing, the Exchange believes that promptly implementing the proposed changes is consistent with the public interest and the protection of investors.

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 – 5: Not applicable.

³⁸ 17 CFR 240.19b-4(f)(6)(iii).

EXHIBIT 1

SECURITIES AND EXCHANGE COMMISSION

(Release No. 34-_____ ; File No. SR-BATS-2012-024)

Self-Regulatory Organizations; BATS Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Modify Rule 11.13 entitled “Order Execution”, Rule 21.9 entitled “Order Routing” and Rule 27.2 entitled “Order Protection”.

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 June 15, 2012, BATS Exchange, Inc. (the “Exchange” or “BATS”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization’s Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is filing with the Commission a proposal to amend Rule 11.13 entitled “Order Execution”, Rule 21.9 entitled “Order Routing” and Rule 27.2 entitled “Order Protection”, to modify Exchange system functionality when the consolidated market is crossed and to modify the handling of orders that have been rejected after routing away through the Exchange’s affiliated broker-dealer. The proposal applies to both the BATS equity securities trading platform (“BATS Equities”) and the BATS equity options trading platform (“BATS Options”).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

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

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

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

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

1. Purpose

The purpose of this rule filing is to modify Exchange system functionality when the consolidated market is crossed and to modify the handling of orders that have been rejected after routing away through the Exchange's affiliated broker-dealer. The proposal applies to both BATS Equities and BATS Options, as described below.

BATS Equities

The Exchange is proposing changes to its system functionality for BATS Equities to implement a price constraint in the event the Exchange receives a non-routable order and a Protected Bid³ and a Protected Offer⁴ are crossed (a "Crossed Market"). The

³ As defined in BATS Rule 1.5(t), Protected Bid means a bid in a stock that is displayed by an automated trading center, disseminated pursuant to an effective national market system plan, and an automated quotation that is the best bid of a national securities exchange or association

Exchange is also proposing to provide its Users with the option to avoid any execution when there is a Crossed Market. Finally, the Exchange is proposing a change to the way that it responds to rejections of orders that were routed to a Protected Quotation.⁵

Under current BATS Rules, for any execution to occur on BATS Equities during Regular Trading Hours,⁶ the price must be equal to or better than the Protected NBBO,⁷ unless the order is marked ISO or unless the execution falls within another exception set forth in Rule 611(b) of Regulation NMS. For any execution to occur during the Pre-Opening Session⁸ or the After Hours Trading Session,⁹ the price must be equal to or better than the highest Protected Bid or lowest Protected Offer. As noted below, the Exchange also currently allows executions of orders outside of Regular Trading Hours when an order is marked ISO and there is a Crossed Market.

The restrictions on executions described above reflect the Exchange's implementation of the trade-through rule of Regulation NMS, Rule 611, which only applies during Regular Trading Hours; however the Exchange has also implemented

⁴ As defined in BATS Rule 1.5(t), Protected Offer means an offer in a stock that is displayed by an automated trading center, disseminated pursuant to an effective national market system plan, and an automated quotation that is the best offer of a national securities exchange or association.

⁵ As defined in BATS Rule 1.5(t), Protected Quotation means a quotation that is a Protected Bid or Protected Offer.

⁶ As defined in BATS Rule 1.5(w), Regular Trading Hours means the time between 9:30 a.m. and 4:00 p.m. Eastern Time.

⁷ As defined in BATS Rule 1.5(s), Protected NBBO means the national best bid or offer that is a Protected Quotation.

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

⁹ As defined in BATS Rule 1.5(c), the After Hours Trading Session means the time between 4:00 p.m. and 5:00 p.m. Eastern Time.

trade-through protection outside of Regular Trading Hours in order to promote the handling of orders in a consistent and orderly fashion. Pursuant to the exception of Rule 611(b)(4) during Regular Trading Hours, as well as during the Pre-Opening Session and the After Hours Trading Session, the Exchange does not currently impose trade-through protections when there is a Crossed Market. In order to constrain the price of executions when there is a Crossed Market, in the event that a Protected Bid is crossing a Protected Offer, whether during or outside of Regular Trading Hours, unless an order is marked ISO, BATS Equities will not execute any portion of a bid at a price more than the greater of 5 cents or 0.5 percent higher than the lowest Protected Offer or any portion of an offer that is not marked ISO that would execute at a price more than the greater of 5 cents or 0.5 percent lower than the highest Protected Bid. In order to provide an additional option for Users¹⁰ that do not want any orders to execute when there is a Crossed Market, upon instruction from a User, BATS Equities will not execute any incoming order from such User in the event a Protected Bid is crossing a Protected Offer. The Exchange believes that the thresholds proposed in this rule filing will help avoid executions of orders at prices that are significantly worse than the NBBO.¹¹

The following example demonstrates how the Exchange's Crossed Market threshold would operate for BATS Equities:

- The NBBO in security ABC is \$5.00 (bid) by \$4.98 (offer), and thus, there is a Crossed Market;

¹⁰ As defined in BATS Rule 1.5(cc), a User is any Member or Sponsored Participant who is authorized to access the Exchange's system pursuant to Exchange Rules.

¹¹ As defined in BATS Rule 1.5(o), NBBO shall mean the national best bid or offer.

- A User submits a non-routable market order (e.g., designated as a “BATS Only” order) to buy 1,000 shares of ABC;
- The Exchange has liquidity in ABC as follows: 100 shares to sell for \$4.98, 100 shares to sell for \$5.00, 200 shares to sell for \$5.03, and 300 shares to sell for \$5.05.

Under the circumstances described above, the incoming market order to buy would be executed as follows:

- 100 shares executed on the Exchange at the \$4.98 price level;
- 100 shares executed on the Exchange at the \$5.00 price level;
- 200 shares executed on the Exchange at the \$5.03 price level;
- 600 shares cancelled back to the User.

As proposed, with a Crossed Market of \$5.00 by \$4.98, the Exchange will execute any incoming buy orders up to and including \$5.03 and any incoming sell orders down to and including \$4.95 per share. Accordingly, under this example, 400 shares of the incoming buy order would be executed, including 200 shares at the Crossed Market threshold of \$5.03. The remaining 600 shares of the market order would be cancelled back to the User because the liquidity on the Exchange at the \$5.05 price level exceeds the thresholds set forth in proposed Rule 11.13. The Exchange notes that in the event the order was designated as eligible for routing, the Exchange’s normal routing strategies would apply, and, to the extent that other market centers have better prices than are available on the BATS Book,¹² the Exchange would route the order away to such other market centers rather than executing solely on the Exchange. Accordingly, the Exchange proposes to

¹² As defined in BATS Rule 1.5(e), BATS Book means the System’s electronic file of orders.

add language to Rule 11.13 to make clear that to the extent an incoming order is executable because a Protected Bid is crossing a Protected Offer but such incoming order is eligible for routing and there is a Protected Bid or Protected Offer available at another Trading Center¹³ that is better priced than the bid or offer against which the order would execute on the Exchange, the Exchange will first seek to route the order to such better priced quotation pursuant to Rule 11.13(a)(2).

The Exchange has proposed to exclude ISOs from the proposed pricing threshold because a User is subject to certain specific obligations when pricing and submitting an order as an ISO.¹⁴ The Exchange believes that rejecting an ISO upon receipt due to a Crossed Market is inconsistent with the general notion of an ISO, which allows a User to designate a price at which the Exchange can execute the order without regard to the Exchange's view of the NBBO.

In addition to the implementation of Crossed Market price constraints and the ability to designate orders as ineligible for execution during a Crossed Market, the Exchange is proposing to modify the way that it handles rejections received from other Trading Centers. Currently the Exchange routes all orders through its affiliated broker-dealer, BATS Trading, Inc. ("BATS Trading"). In certain instances, BATS Trading, in

¹³ As defined in BATS Rule 2.11, a Trading Center is another securities exchange, facility of a securities exchange, automated trading system, electronic communication network or other broker or dealer.

¹⁴ See 17 CFR 240.600(b)(30) and 611(c); see also BATS Rule 11.9(d)(1), which states that "[t]he Exchange relies on the marking of an order as an ISO order when handling such order, and thus, it is the entering Member's responsibility, not the Exchange's responsibility, to comply with the requirements of Regulation NMS relating to Intermarket Sweep Orders." The Exchange notes that as a self-regulatory organization it conducts regulatory oversight of each Exchange Member's use of Intermarket Sweep Orders on the Exchange.

turn, routes to certain third party broker-dealers in order to ensure that the Exchange has effective and redundant connections to all other Trading Centers with Protected Quotations. BATS Trading occasionally receives “rejections” of orders either from the Trading Centers to which it routes directly or through the third party broker-dealers through which it routes. Such rejections can be for various reasons, including a technical problem with the order, market access thresholds implemented pursuant to SEC Rule 15c3-5, or other operational thresholds. The Exchange currently handles orders on which it receives rejections by either cancelling the order back to the User or, if the order submitted by the User instructs the Exchange to do so, by posting the order to the Exchange’s order book after subjecting such order to its price sliding process pursuant to Rule 11.9(g) in order to avoid locking any Protected Quotation that it cannot access. Rather than posting an order to its book, the Exchange proposes to cancel all orders for which it has received a rejection due to an inability to access another Trading Center, providing a User with the opportunity to submit a new order or seek another path to the applicable Protected Quotation. The Exchange has also proposed to make clear that such a cancellation will not apply to Protected Quotations published by a Trading Center against which the Exchange has declared self-help pursuant to Exchange Rule 11.13(d). Although a Protected Quotation may be inaccessible to the Exchange, once the Exchange has declared self-help pursuant to Rule 11.13(d), the Exchange disregards, and will continue to execute transactions and route orders without regard to, such Protected Quotations. Notwithstanding the foregoing, however, even after the Exchange has received a rejection from a Trading Center, if there are multiple Trading Centers included in the routing option selected by the User that have Protected Quotations at the NBBO,

the System¹⁵ will continue to route the order to the Protected Quotations at other such other Trading Centers at that price level.

BATS Options

The Exchange proposes to make each of the proposed changes described above to the functionality applicable to trading on and routing away from, BATS Options. The Exchange notes that there are no substantive differences to the proposed functionality; rather, the only differences between the proposal for BATS Equities and BATS Options are the references to applicable rules and terms.

The Exchange is proposing changes to its system functionality for BATS Options to implement a price constraint in the event the Exchange receives a non-routable order and a Protected Bid is higher than a Protected Offer¹⁶ in a series of an Eligible Class (a “Crossed Market”).¹⁷ The Exchange is also proposing to provide its Users with the option to avoid any execution when there is a Crossed Market. Finally, the Exchange is

¹⁵ As defined in BATS Rule 1.5(aa), System means the electronic communications and trading facility designate by the Board through which securities orders of Users are consolidated for ranking, execution and, when applicable, routing away.

¹⁶ As defined in BATS 27.1(18), “Protected Bid” or “Protected Offer” means a Bid or Offer in an options series, respectively, that: (A) Is disseminated pursuant to the OPRA Plan; and (B) Is the Best Bid or Best Offer, respectively, displayed by an Eligible Exchange. An “Eligible Exchange” is a national securities exchange registered with the SEC in accordance with Section 6(a) of the Exchange Act that: (a) is a Participant Exchange in OCC (as that term is defined in Section VII of the OCC by-laws); (b) is a party to the OPRA Plan (as that term is described in Section I of the OPRA Plan); and (c) if the national securities exchange chooses not to become a party to this Plan, is a participant in another plan approved by the Commission providing for comparable Trade-Through and Locked and Crossed Market protection.

¹⁷ This definition for Crossed Market is consistent with the definition contained in BATS Rule 27.1(5).

proposing a change to the way that it responds to rejections of orders that were routed to a Protected Quotation.¹⁸

Under current BATS Rules, Members are prohibited from effecting Trade-Throughs¹⁹ on BATS Options unless the execution falls within another exception set forth in BATS Rule 27.2(b), which includes an exception for any order that is marked ISO. Pursuant to the exception of Rule 27.2(b)(3), the Exchange does not prohibit Trade-Throughs when there is a Crossed Market. In order to constrain the price of executions when there is a Crossed Market, in the event that a Protected Bid is crossing a Protected Offer, unless an order is marked ISO, BATS Options will not execute any portion of a bid at a price more than the greater of 5 cents or 0.5 percent higher than the lowest Protected Offer or any portion of an offer that is not marked ISO that would execute at a price more than the greater of 5 cents or 0.5 percent lower than the highest Protected Bid. In order to provide an additional option for Users²⁰ that do not want any orders to execute when there is a Crossed Market, upon instruction from a User, BATS Options will not execute any incoming order from such User in the event a Protected Bid is crossing a Protected

¹⁸ As defined in BATS Rule 27.1(19), Protected Quotation means a Protected Bid or Protected Offer.

¹⁹ As defined in BATS Rule 27.1(22), a Trade-Through is a transaction in an options series at a price that is lower than a Protected Bid or higher than a Protected Offer.

²⁰ As defined in BATS Rule 16.1(a)(63), a User is any Options Member or Sponsored Participant who is authorized to access the Exchange's system pursuant to Exchange Rules.

Offer. The Exchange believes that the thresholds proposed in this rule filing will help avoid executions of orders at prices that are significantly worse than the NBBO.²¹

The following example demonstrates how the Exchange's Crossed Market threshold would operate for BATS Options:

- The NBBO in options series XYZ is \$2.00 (bid) by \$1.98 (offer), and thus, there is a Crossed Market;
- A User submits a non-routable market order (e.g., designated as a "BATS Only" order) to buy 100 contracts of XYZ;
- The Exchange has liquidity in XYZ as follows: 10 contracts to sell for \$1.98, 10 contracts to sell for \$2.00, 20 contracts to sell for \$2.03, and 30 contracts to sell for \$2.05.

Under the circumstances described above, the incoming market order to buy would be executed as follows:

- 10 contracts executed on the Exchange at the \$1.98 price level;
- 10 contracts executed on the Exchange at the \$2.00 price level;
- 20 contracts executed on the Exchange at the \$2.03 price level;
- 60 contracts cancelled back to the User.

As proposed, with a Crossed Market of \$2.00 by \$1.98, the Exchange will execute any incoming buy orders up to and including \$2.03 and any incoming sell orders down to and including \$1.95 per share. Accordingly, under this example, 40 contracts of the incoming buy order would be executed, including 20 contracts at the Crossed Market threshold of \$2.03. The remaining 60 contracts of the market order would be cancelled back to the

²¹ As defined in BATS Rule 27.1(11), NBBO shall mean the national best bid and offer in an option series as calculated by an Eligible Exchange.

User because the liquidity on the Exchange at the \$2.05 price level exceeds the thresholds set forth in proposed Interpretation and Policy .01 to Rule 27.2. The Exchange notes that in the event the order was designated as eligible for routing, the Exchange's normal routing strategies would apply, and, to the extent that other market centers have better prices than are available on the BATS Options Book,²² the Exchange would route the order away to such other market centers rather than executing solely on the Exchange. Accordingly, the Exchange proposes to add Interpretation and Policy .02 to Rule 27.2 to make clear that to the extent an incoming order is executable because a Protected Bid is crossing a Protected Offer but such incoming order is eligible for routing and there is a Protected Bid or Protected Offer available at another options exchange that is better priced than the bid or offer against which the order would execute on the Exchange, the Exchange will first seek to route the order to such better priced quotation pursuant to Rule 21.9.

As described for BATS Equities, the Exchange has proposed to exclude ISOs from the proposed pricing threshold for BATS Options because a User is subject to certain specific obligations when pricing and submitting an order as an ISO. The Exchange believes that rejecting an ISO upon receipt due to a Crossed Market is inconsistent with the general notion of an ISO, which allows a User to designate a price at which the Exchange can execute the order without regard to the Exchange's view of the NBBO.

²² As defined in BATS Rule 16.1(a)(9), BATS Options Book means the means the electronic book of options orders maintained by the System.

In addition to the implementation of Crossed Market price constraints and the ability to designate orders as ineligible for execution during a Crossed Market, the Exchange is proposing to modify the way that it handles rejections received from other options exchanges. Currently the Exchange routes all orders through its affiliated broker-dealer, BATS Trading, Inc. (“BATS Trading”). In certain instances, BATS Trading, in turn, routes to certain third party broker-dealers in order to ensure that the Exchange has effective and redundant connections to all other options exchanges with Protected Quotations. BATS Trading occasionally receives “rejections” of orders either from the options exchanges to which it routes directly or through the third party broker-dealers through which it routes. Such rejections can be for various reasons, including a technical problem with the order, market access thresholds implemented pursuant to SEC Rule 15c3-5, or other operational thresholds. The Exchange currently handles orders on which it receives rejections by either cancelling the order back to the User or, if the order submitted by the User instructs the Exchange to do so, by posting the order to the Exchange’s order book after subjecting such order to its price sliding process pursuant to Rule 21.1 in order to avoid locking any Protected Quotation that it cannot access. Rather than posting an order to its book, the Exchange proposes to cancel all orders for which it has received a rejection due to an inability to access another options exchange, providing a User with the opportunity to submit a new order or seek another path to the applicable Protected Quotation. The Exchange has also proposed to make clear that such a cancellation will not apply to Protected Quotations published by an options exchange against which the Exchange has declared self-help pursuant to Exchange Rule 27.2(b)(1). Although a Protected Quotation may be inaccessible to the Exchange, once the Exchange

has declared self-help pursuant to Rule 27.2(b)(1), the Exchange disregards, and will continue to execute transactions and route orders without regard to, such Protected Quotations. Notwithstanding the foregoing, however, even after the Exchange has received a rejection from an options exchange, if there are multiple options exchanges included in the routing option selected by the User that have Protected Quotations at the NBBO, the System²³ will continue to route the order to the Protected Quotations at other such other options exchanges at that price level.

2. Statutory Basis

The Exchange believes that its proposal 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.²⁴ In particular, the proposal is consistent with Section 6(b)(5) of the Act,²⁵ 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 by helping to avoid executions of orders on the Exchange at prices that are significantly worse than the national best bid or national best offer at the time an order is initially received by the Exchange, even if executions are permissible pursuant to Regulation NMS or under the Exchange's analogous rules for BATS Options. The Exchange believes that permitting Users to avoid any execution of an incoming order in a Crossed Market is an additional functionality that is consistent with the protection of investors and the public interest.

²³ As defined in BATS Rule 16.1(a)(59), System means the automated trading system used by BATS Options for the trading of options contracts.

²⁴ 15 U.S.C. 78f(b).

²⁵ 15 U.S.C. 78f(b)(5).

Although the Exchange does not believe that any other self-regulatory organization has exactly the same Crossed Market threshold in place, the Exchange as well as other market centers have implemented a variety of pricing thresholds to constrain executions and protect market participants.²⁶ Also, this proposal is consistent with existing Exchange rules that allow for the breaking of trades deemed clearly erroneous²⁷ or in obvious error²⁸ by reference to objective thresholds worse than the NBBO. The Exchange believes that the proposed pricing thresholds are reasonable because they are significantly narrower than thresholds in place on BATS Equities for market orders received by the Exchange²⁹ and also narrower than applicable clearly erroneous thresholds for BATS Equities. A narrow threshold will protect market participants and their customers from potentially executing at prices away from the NBBO when there is a Crossed Market, which can be an indication of a pricing anomaly in a security or a potential systems issue at another Trading Center or options exchange. Further, the proposed threshold is consistent with the protection of investors and the public interest because it will help to avoid clearly erroneous executions or obvious error transactions from occurring in the first place, rather than allowing an execution to occur and breaking the trade based on Exchange rules.

Finally, the Exchange believes that the cancellation of all orders that have been rejected by other market centers or third party routers, rather than posting such orders to

²⁶ See, e.g., BATS Rule 11.9(a)(2), which constrains the executions of a market order on BATS to \$0.50 or 5 percent away from the NBBO at the time the order initially reaches the Exchange; see also NYSE Arca Rule 7.31(a); NASDAQ Rule 4751(f)(13).

²⁷ See BATS Rule 11.17.

²⁸ See BATS Rule 20.6.

²⁹ See supra note 26.

the Exchange's book will provide Users with more immediate certainty regarding their orders, and will provide Users the ability to modify and re-submit or send their orders via a different path to attempt to access the applicable Protected Quotation. Accordingly, the modifications to BATS Rules 11.13 and 20.9 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.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change imposes any burden on competition.

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

The Exchange has neither solicited nor received written comments on the proposed rule change.

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

Because the foregoing proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act³⁰ and Rule 19b-4(f)(6)(iii) thereunder.³¹

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

³⁰ 15 U.S.C. 78s(b)(3)(A).

³¹ 17 CFR 240.19b-4(f)(6).

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-2012-024 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-2012-024. 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 website (<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 website 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-2012-024 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.³²

Kevin M. O'Neill
Deputy Secretary

³² 17 CFR 200.30-3(a)(12).