

Required fields are shown with yellow backgrounds and asterisks.

Proposed Rule Change by BATS Exchange  
Pursuant to Rule 19b-4 under the Securities Exchange Act of 1934

<b>Initial *</b>	<b>Amendment *</b>	<b>Withdrawal</b>	<b>Section 19(b)(2) *</b>	<b>Section 19(b)(3)(A) *</b>		<b>Section 19(b)(3)(B) *</b>		
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>		<input type="checkbox"/>		
			Rule					
<b>Pilot</b>	<b>Extension of Time Period for Commission Action *</b>	<b>Date Expires *</b>	<b>19b-4(f)(1)</b>	<b>19b-4(f)(2)</b>	<b>19b-4(f)(3)</b>	<b>19b-4(f)(4)</b>	<b>19b-4(f)(5)</b>	<b>19b-4(f)(6)</b>
<input type="checkbox"/>	<input type="checkbox"/>	<input type="text"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

<b>Exhibit 2 Sent As Paper Document</b>	<b>Exhibit 3 Sent As Paper Document</b>
<input type="checkbox"/>	<input type="checkbox"/>

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

Proposal to expand the availability of the Exchange's Risk Management Tool (the "Tool") to all Exchange Members.

**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 11/19/2012

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 EFFS website.

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

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

**Exhibit 1 - Notice of Proposed Rule Change (required)**

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

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

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Exhibit Sent As Paper Document

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

**Exhibit 3 - Form, Report, or Questionnaire**

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Exhibit Sent As Paper Document

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

**Exhibit 4 - Marked Copies**

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

**Exhibit 5 - Proposed Rule Text**

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

**Partial Amendment**

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

1. Text of the Proposed Rule Change

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the “Act”),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> BATS Exchange, Inc. (the “Exchange” or “BATS”) is filing with the Securities and Exchange Commission (“Commission”) a proposal to expand the availability of the Exchange’s Risk Management Tool (the “Tool”) to all Exchange Members.<sup>3</sup> The Tool is currently available only to Members that provide sponsored access to other market participants, as described below. The Exchange has designated this proposal as non-controversial and provided the Commission with the notice required by Rule 19b-4(f)(6)(iii) under the Act.<sup>4</sup>

- (a) The Exchange is proposing to expand the offering of the Tool.
- (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.

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

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

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

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

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 defines a "Sponsored Participant" as a person who has entered into a sponsorship arrangement with a Sponsoring Member.<sup>5</sup> A "Sponsoring Member" is defined as a broker-dealer that is a Member of the Exchange and has been designated by a Sponsored Participant to execute, clear and settle transactions occurring on the Exchange.<sup>6</sup> Under BATS Rule 11.3(b), a Sponsoring Member may allow its customers to enter orders directly into the trading systems of the Exchange as Sponsored Participants, without the Sponsoring Member acting as an intermediary.

To facilitate the ability of a Sponsoring Member to monitor and oversee the sponsored access activity of its Sponsored Participants, the Exchange offers the Sponsored Access Risk Management Tool.<sup>7</sup> This optional service acts as a risk filter by causing the orders of Sponsored Participants to be evaluated by the Tool prior to entering the Exchange's matching engine for execution. When a Sponsored Participant's order is evaluated by the Tool, it determines whether the order complies with the order criteria established by the Sponsoring Member for that Sponsored Participant. The order criteria

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<sup>5</sup> See BATS Rule 1.5(w)

<sup>6</sup> See BATS Rule 1.5(x)

<sup>7</sup> See Securities Exchange Act Release No. 60236 (July 2, 2009), 74 FR 34068 (July 14, 2009) (SR-BATS-2009-019) (notice of filing and immediate effectiveness of proposed rule change to establish a Sponsored Access Risk Management Tool).

pertain to such matters as the size of the order (*e.g.*, maximum notional value per order and maximum shares per order), the order type (*e.g.*, pre-market, post-market, short sales and ISOs), restricted securities, easy to borrow securities, and order cut-off (*e.g.*, block new orders and cancel all open orders).

Given recent market events, the Exchange proposes to expand the availability of the Tool to all Members. As amended, the Tool can be configured by a Member to provide an Exchange offered risk management solution. Just as the use of the Tool by a Sponsoring Member does not automatically constitute compliance with Exchange Rules, the Exchange does not believe that use of the Tool can replace Member-managed risk management solutions. However, the Exchange does believe that the Tool can be a valuable addition to risk management solutions implemented by Members.

As is currently the case, orders subject to the Tool will be validated by the Exchange prior to entering the Exchange's matching engine. Based on parameters provided to the Tool, the order will be immediately passed on to the matching engine or rejected back to the entering Member.

The Exchange does not propose to require Members to use the Tool. Members are free to use any appropriate risk-management tool or service. The Exchange will not provide preferential treatment to Members using the Tool.

The Exchange proposes to make the Tool available to its Members upon request. The Exchange believes the Tool will offer the Exchange's Members another option in the efficient risk management of its Members' access to BATS Exchange.

(b) Statutory Basis

The rule change proposed in this submission is consistent with the requirements of the Act and the rules and regulations thereunder that are applicable to a national securities exchange, and, in particular, with the requirements of Section 6(b) of the Act.<sup>8</sup> Specifically, the proposed change is consistent with Section 6(b)(5) of the Act,<sup>9</sup> because it would promote just and equitable principles of trade, remove impediments to, and perfect the mechanism of, a free and open market and a national market system, and, in general, protect investors and the public interest. The proposed rule change also is designed to support the principles of Section 11A(a)(1)<sup>10</sup> in that it seeks to assure economically efficient execution of securities transactions, make it practicable for brokers to execute investors' orders in the best market, and provide an opportunity for investors' orders to be executed without the participation of a dealer. Specifically, the Exchange believes that the proposed rule change is consistent with all of the aforementioned principles because it fosters competition by providing another option in the efficient risk management of trading on the Exchange. In particular, the Exchange notes that the proposal is consistent with Section 11(A)(a)(1) in that it makes available to all Exchange Members a Tool that previously was available only to Members that provided sponsored access to Sponsored Participants. The Exchange notes that a similar functionality has already been found to be consistent with the Act by the Commission.<sup>11</sup>

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<sup>8</sup> 15 U.S.C. 78f(b).

<sup>9</sup> 15 U.S.C. 78f(b)(5).

<sup>10</sup> 15 U.S.C. 78k-1(a)(1).

<sup>11</sup> Securities Exchange Act Release No. 59354 (February 3, 2009), 74 FR 6683 (February 10, 2009) (SR-NYSE-2008-101) (Approval of NYSE Risk Management Gateway).

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 Act<sup>12</sup> and paragraph (f)(6) of Rule 19b-4 thereunder.<sup>13</sup> The Exchange asserts that the proposed rule change: (1) will not significantly affect the protection of investors or the public interest, (2) will not impose any significant burden on competition, and (3) and will not become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate. In addition, the Exchange provided the Commission with written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing, or such shorter time as designated by the Commission.<sup>14</sup> Also, the Exchange believes that the Tool does not present any policy issues that have not previously been considered by the Commission. In particular, as noted above, a similar

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<sup>12</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>13</sup> 17 CFR 240.19b-4.

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

functionality has already been found to be consistent with the Act by the Commission,<sup>15</sup> and the Exchange has offered the Tool to Sponsoring Members for several years. Furthermore, other exchanges, including the Exchange's platform for trading of equity options, offer similar optional risk management functionality.<sup>16</sup> For the foregoing reasons, this rule filing qualifies for immediate effectiveness as a "non-controversial" rule change under paragraph (f)(6) of Rule 19b-4.

The Exchange requests that the Commission waive the 30-day pre-operative waiting period contained in Rule 19b-4(f)(6)(iii) under the Act.<sup>17</sup> The Exchange believes that benefits to Exchange Users expected from the Tool should not be delayed. Based on the foregoing, and because the rule filing is non-controversial, the Exchange believes that its proposal should become immediately effective and requests that the Commission waive the 30-day pre-operative waiting period contained in Rule 19b-4(f)(6)(iii) under the Act.<sup>18</sup> Waiver of this requirement is consistent with the protection of investors and the public interest for the reasons described above.

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<sup>15</sup> Securities Exchange Act Release No. 59354 (February 3, 2009), 74 FR 6683 (February 10, 2009) (SR-NYSE-2008-101) (Approval of NYSE Risk Management Gateway).

<sup>16</sup> See, e.g., Securities Exchange Act Release No. 60607 (September 1, 2009), 74 FR 46275 (September 8, 2009) (SR-NYSEArca-2009-80) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Establish the Risk Management Gateway ("RMG") Service); see also Securities Exchange Act Release No. 67165 (June 8, 2012), 77 FR 35719 (June 14, 2012) (SR-BATS-2012-021) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Adopt Rules Related to Risk Management Functionality for BATS Options).

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

<sup>18</sup> 17 CFR 240.19b-4(f)(6)(iii).

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.

EXHIBIT 1

SECURITIES AND EXCHANGE COMMISSION

(Release No. 34-\_\_\_\_\_ ; File No. SR-BATS-2012-045)

Self-Regulatory Organizations; BATS Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Expand the Availability of Risk Management Tools.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the “Act”),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on November 19, 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 expand the availability of the Exchange’s Risk Management Tool (the “Tool”) to all Exchange Members.<sup>3</sup> The Tool is currently available only to Members that provide sponsored access to other market participants, as described below.

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.

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

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

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

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 defines a "Sponsored Participant" as a person who has entered into a sponsorship arrangement with a Sponsoring Member.<sup>4</sup> A "Sponsoring Member" is defined as a broker-dealer that is a Member of the Exchange and has been designated by a Sponsored Participant to execute, clear and settle transactions occurring on the Exchange.<sup>5</sup> Under BATS Rule 11.3(b), a Sponsoring Member may allow its customers to enter orders directly into the trading systems of the Exchange as Sponsored Participants, without the Sponsoring Member acting as an intermediary.

To facilitate the ability of a Sponsoring Member to monitor and oversee the sponsored access activity of its Sponsored Participants, the Exchange offers the Sponsored Access Risk Management Tool.<sup>6</sup> This optional service acts as a risk filter by

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<sup>4</sup> See BATS Rule 1.5(w)

<sup>5</sup> See BATS Rule 1.5(x)

<sup>6</sup> See Securities Exchange Act Release No. 60236 (July 2, 2009), 74 FR 34068 (July 14, 2009) (SR-BATS-2009-019) (notice of filing and immediate effectiveness of proposed rule change to establish a Sponsored Access Risk Management Tool).

causing the orders of Sponsored Participants to be evaluated by the Tool prior to entering the Exchange's matching engine for execution. When a Sponsored Participant's order is evaluated by the Tool, it determines whether the order complies with the order criteria established by the Sponsoring Member for that Sponsored Participant. The order criteria pertain to such matters as the size of the order (*e.g.*, maximum notional value per order and maximum shares per order), the order type (*e.g.*, pre-market, post-market, short sales and ISOs), restricted securities, easy to borrow securities, and order cut-off (*e.g.*, block new orders and cancel all open orders).

Given recent market events, the Exchange proposes to expand the availability of the Tool to all Members. As amended, the Tool can be configured by a Member to provide an Exchange offered risk management solution. Just as the use of the Tool by a Sponsoring Member does not automatically constitute compliance with Exchange Rules, the Exchange does not believe that use of the Tool can replace Member-managed risk management solutions. However, the Exchange does believe that the Tool can be a valuable addition to risk management solutions implemented by Members.

As is currently the case, orders subject to the Tool will be validated by the Exchange prior to entering the Exchange's matching engine. Based on parameters provided to the Tool, the order will be immediately passed on to the matching engine or rejected back to the entering Member.

The Exchange does not propose to require Members to use the Tool. Members are free to use any appropriate risk-management tool or service. The Exchange will not provide preferential treatment to Members using the Tool.

The Exchange proposes to make the Tool available to its Members upon request. The Exchange believes the Tool will offer the Exchange's Members another option in the efficient risk management of its Members' access to BATS Exchange.

## 2. Statutory Basis

The rule change proposed in this submission is consistent with the requirements of the Act and the rules and regulations thereunder that are applicable to a national securities exchange, and, in particular, with the requirements of Section 6(b) of the Act.<sup>7</sup> Specifically, the proposed change is consistent with Section 6(b)(5) of the Act,<sup>8</sup> because it would promote just and equitable principles of trade, remove impediments to, and perfect the mechanism of, a free and open market and a national market system, and, in general, protect investors and the public interest. The proposed rule change also is designed to support the principles of Section 11A(a)(1)<sup>9</sup> in that it seeks to assure economically efficient execution of securities transactions, make it practicable for brokers to execute investors' orders in the best market, and provide an opportunity for investors' orders to be executed without the participation of a dealer. Specifically, the Exchange believes that the proposed rule change is consistent with all of the aforementioned principles because it fosters competition by providing another option in the efficient risk management of trading on the Exchange. In particular, the Exchange notes that the proposal is consistent with Section 11(A)(a)(1) in that it makes available to all Exchange Members a Tool that previously was available only to Members that

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<sup>7</sup> 15 U.S.C. 78f(b).

<sup>8</sup> 15 U.S.C. 78f(b)(5).

<sup>9</sup> 15 U.S.C. 78k-1(a)(1).

provided sponsored access to Sponsored Participants. The Exchange notes that a similar functionality has already been found to be consistent with the Act by the Commission.<sup>10</sup>

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

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

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

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

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

Because the foregoing proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>11</sup> and Rule 19b-4(f)(6)(iii) thereunder.<sup>12</sup>

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

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<sup>10</sup> Securities Exchange Act Release No. 59354 (February 3, 2009), 74 FR 6683 (February 10, 2009) (SR-NYSE-2008-101) (Approval of NYSE Risk Management Gateway).

<sup>11</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>12</sup> 17 CFR 240.19b-4(f)(6).

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposal is consistent with the Act.

Comments may be submitted by any of the following methods:

Electronic Comments:

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File No. SR-BATS-2012-045 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-2012-045. 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-2012-045 and should be submitted on or before [\_\_\_\_\_21 days from publication in the Federal Register].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>13</sup>

Kevin M. O'Neill  
Deputy Secretary

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<sup>13</sup> 17 CFR 200.30-3(a)(12).